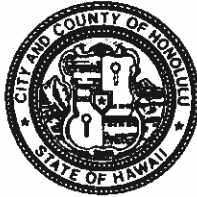


DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluodpp.org](http://www.honoluluodpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

March 22, 2019

The Honorable Ann H. Kobayashi  
Interim Chair and Presiding Officer  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Interim Chair Kobayashi and Councilmembers:

SUBJECT: State Land Use District Boundary Amendment,  
Brigham Young University – Hawaii Campus, Bill 94 (2018), CD1

The above-referenced Bill includes a recommendation from the Department of Planning and Permitting, in the attached supplemental report, to accept the cultural document (Ka Paakai Analysis) dated March 6, 2019.

The Ka Paakai Analysis prepared by the R. M. Towill Corporation, consultant to Brigham Young University – Hawaii (BYU-H), was a condition stipulated by the Planning Commission in their recommendation at a public hearing on October 31, 2018, to approve BYU-H's application for a state land use boundary reclassification of 14.85 acres.

Should you have any questions, please contact me at 768-8000.

Very truly yours,

A handwritten signature in blue ink, reading "Kathy K. Sokugawa".

Kathy K. Sokugawa  
Acting Director

Attachments

cc: Mayor Kirk Caldwell

APPROVED:

A handwritten signature in blue ink, reading "Roy K. Amemiya, Jr.".

Roy K. Amemiya, Jr.  
Managing Director

DEPT. COM. 204

ZH

19MAR22 AM 7:57 CITY CLERK

BEFORE THE CITY COUNCIL  
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION )  
 )  
OF )  
 )  
BRIGHAM YOUNG UNIVERSITY - HAWAII )  
 )  
FOR A )  
 )  
STATE LAND USE DISTRICT BOUNDARY )  
AMENDMENT OF 14.85 ACRES FROM )  
THE STATE AGRICULTURAL DISTRICT TO )  
THE URBAN DISTRICT AND STATE LAND )  
USE DISTRICT BOUNDARY AMENDMENT )  
OF 0.03 ACRES FROM THE STATE URBAN )  
DISTRICT TO THE AGRICULTURAL DISTRICT )

File Nos. 2018/SLU-1  
2018/GEN-8

SUPPLEMENTAL REPORT  
FINDINGS OF FACT, CONCLUSIONS,  
AND RECOMMENDATION

I. PROPOSAL

In accordance with Rule 8.4, Action by the Planning Commission, Procedures for the Amendment of State Land Use District Boundaries (areas of fifteen (15) acres or less), the Planning Commission, at its Public Hearing on October 31, 2018, considered the application submitted by Brigham Young University - Hawaii (BYU-H) for a State Land Use District Boundary Amendment (SLUDBA). The SLUDBA is to 1) reclassify five non-contiguous areas totaling 14.85 acres of land from the State Land Use (SLU) Agricultural District to the SLU Urban District, and 2) reclassify 0.03 acre-area of land from the SLU Urban District to the SLU Agricultural District (see Tables 1 and 2). Action on the SLUDBA precedes consideration of a Planned Review Use application to permit planned campus renovations and construction.

At the October 31, 2018 Public Hearing, the Planning Commission voted unanimously, 5:0, to accept the recommendations of the Acting Director of the Department of Planning and Permitting (DPP), subject to a modification of Recommendation No. 3 in Section V on page 26 of the Director's Report, to add, after "...Cultural Impact Assessment (CIA)," insert "or other cultural document acceptable to the DPP", including a Ka Paakai Analysis.

The following Findings of Fact, Conclusions, and Recommendation supplements the DPP's Findings of Fact, Analysis, Conclusions of Law, and Recommendation transmitted to the City Council on December 6, 2018, (Departmental Communication, D-783).

**Table 1: Current Land Use of Proposed SLU Urban District Expansion Areas**

Location	Area (acres)	Description
North Area (Area 1)	0.12	Grassed open space north and adjacent to married student TVA building 25.
Northwest Area (Area 2)	0.50	Existing grassed open space area; 20 stalls of an existing, 34-stall paved parking lot for the proposed TVA building 27.
West Area (Area 4)	2.70	Existing 112-stall gravel parking lot, grassed detention area, and EUTBB (existing).
South Area (Area 5)	10.00	Inactive agricultural land, vacant open space.
Southeast Area (Area 6)	1.53	Existing 127-stall paved PCC parking lot.
<b>Total</b>	<b>14.85</b>	

**Table 2: Current Land Use of Proposed SLU Agricultural District Expansion Area**

Location	Area (acres)	Description
Between Northwest and West Areas (Area 3)	0.03	Asphalt pavement surface and Mikioneli Way right-of-way (formerly called the West Road Loop Extension).*
<b>Total</b>	<b>0.03</b>	*-The inclusion of the triangular 0.03 acre area in this SLUDBA petition to reclassify it from SLU Urban to SLU Agricultural is to maintain a consistent, straight SLU Boundary between the two districts.

## II. FINDINGS OF FACT

On the basis of the evidence presented, the DPP hereby finds that:

A Ka Paakai Analysis, derived from a landmark state Supreme Court case, *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), provides the analytical framework to effectuate the State's obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests. The framework consists of three parts:

- 1) The identity and scope of "valued, cultural, historical, or natural resources" in the Petition area;

- 2) The extent to which those resources, including traditional and customary native Hawaiian rights will be affected or impaired by the proposed action; and
- 3) The feasible actions, if any, to be taken by the DPP (replacing the State Land Use Commission (LUC) as the approving agency for boundary reclassifications of 15 acres or less) to reasonably protect native Hawaiian rights if they are found to exist.

The Ka Paakai Analysis for the BYU-H SLUDBA aims to satisfy the requirements of Hawaii Revised Statutes, Section 205-17(3)(B), by specifically considering the impacts to the maintenance of valued, cultural, historic or natural resources in the reclassification of state land use district boundaries. It reviews and documents any known traditional and cultural native Hawaiian practices in each of the six, non-contiguous areas that comprise the Petition area for BYU-H. The selected method to do so was to interview three respected Laie kupuna, long-known for their extensive knowledge of past and present native Hawaiians' exercise of customary and traditional practices in the Petition area and vicinity.

The City and County of Honolulu City Council held the first reading of the Bill for an Ordinance, Bill 94 (2018), on January 30, 2019, and forwarded it to the Zoning and Housing (ZH) Committee. At the ZH Committee meeting on February 28, 2019, the Committee accepted Miscellaneous Communication 82 (2019), (M-82(19)), a Ka Paakai Analysis for the BYU-H SLUDBA. M-82(19) also includes a letter of no objection to the BYU-H SLUDBA from the State Historic Preservation Division of the Department of Land and Natural Resources, a summary of the historic resources studies (a 2017 Draft Archeological Literature Review and Field Inspection report and the 2012 Archeological Inventory Survey), and the 2010 Long-Term Preservation Plan for the Nioi Heiau, Site 281.

The initial submittal of the Ka Paakai Analysis to the ZH Committee, M-82(19), contained the oral histories of two of the three respected kupuna, Ms. Kela Kaio Miller and Mr. Cy Bridges. Following the recount of their stories, they advised BYU-H and their representatives to interview Ms. Gladys Pualoa Ahuna, now living on Hawaii Island. After visiting with Ms. Ahuna, her testimony was added and the updated report, Miscellaneous Communication 106 (2019), (M-106(19)), dated March 6, 2019, was filed with the full Council prior to the Public Hearing held on March 8, 2019.

From their interviews, their testimonies reveal that before BYU-H was developed, the area was generally used for agriculture, although Nioi Heiau is nearby. Except for the 10-acre Area 5, the other areas have been subjected to land use modifications from campus development and are not used for traditional or cultural practices. Petition Area 5 contains inactive agricultural land, but has been in intermittent agricultural production for as long as the kupuna can remember. They said many residents in the area have found stone tools and artifacts, but no known traditional cultural resources or practices occur within Area 5. The kupuna stated there are plants on the undeveloped lands in the vicinity of the Petition area (near Area 4 mostly and extending up to Nioi Heiau) that are collected for food, laau lapaau (traditional medical treatment), and other cultural purposes. Access to the heiau is protected with the Long-Term Preservation Plan for the Nioi Heiau, Site 281, and BYU-H's commitment to maintain this access.

The Article XII, Section 7, of the Hawaii Constitution obligates the LUC (thereby the DPP, replacing the LUC as the approving agency for boundary reclassifications of 15 acres or less) to protect the reasonable exercise of customarily and traditionally exercised rights of native Hawaiians to the extent feasible when granting a petition for reclassification of land use district boundaries.

In order to fulfill this duty, the DPP must review and determine the acceptability of a CIA, or other cultural document, including a Ka Paakai Analysis to include: 1) the identity and scope of "valued, cultural, historical, or natural resources" in the Petition area; 2) the extent to which those resources, including traditional and customary native Hawaiian rights will be affected or impaired by the proposed action; and, 3) the feasible actions, if any, to be taken by the DPP (replacing the LUC as the approving agency) to reasonably protect native Hawaiian rights if they are found to exist.

### III. CONCLUSIONS

Based on the Ka Paakai Analysis, dated March 6, 2019, the DPP hereby concludes:

1. Pursuant to the Planning Commission's Findings of Fact and Conclusions, dated December 4, 2018, M-82(19) and later, M-106(19), meets Recommendation No. 3, to provide a CIA or other cultural document, including a Ka Paakai Analysis, acceptable to the DPP.
2. The cultural document submitted in M-82(19) and later, M-106(19), is considered acceptable because it meets the three-part framework for a Ka Paakai Analysis. It documents the known traditional and customary native Hawaiian practices of the six, non-contiguous areas in the Petition area following extensive interviews with three respected Laie kupuna, Ms. Kela Kaio Miller, Ms. Gladys Pualoa Ahuna, and Mr. Cy Bridges.
3. The scope and extent of valued cultural, historical, or natural resources, including the extent to which traditional and customary rights and practices are exercised in the Petition area, were identified.
4. There are no known traditional cultural resources or native Hawaiian customary and traditional practices within the Petition area, and no traditional cultural resources or customary and traditional practices will be affected or impaired by the proposed project.
5. It is likely that the general area around and including the Petition areas was used in the past for traditional practices, such as gathering resources for laau lapaau or subsistence purposes, but these areas haven't been used in that fashion for many decades.
6. Access to Nioi Heiau, undeveloped mauka areas where medicinal plants can still be found, and the Kaio Ohana kuleana lot is provided via the campus road system. Access to Nioi Heiau for traditional cultural practitioners is preserved by BYU-H, subject to conditions established in

the Long-Term Preservation Plan Nioi Heiau, Site 281. The Preservation Plan was developed by BYU-H with guidance by the Laie Kupuna Council and was approved by the State Historic Preservation Division.

7. The project will have no effect on access to historic and traditional cultural practices and resources.
8. There are no concerns related to native Hawaiian customary and traditional cultural practices if the project proceeds.

## V. RECOMMENDATION

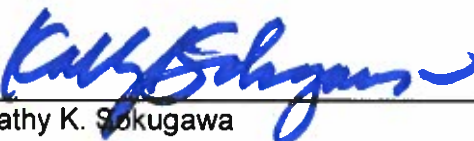
Pursuant to the foregoing Findings of Fact and Conclusions, the Department of Planning and Permitting hereby recommends to the City and County of Honolulu City Council, acceptance of Miscellaneous Communication 106 (2019), dated March 6, 2019, from the R. M. Towill Corporation, as a cultural document that includes a Ka Paakai Analysis, for the state land use boundary reclassification of 14.85 acres at the Brigham Young University – Hawaii campus in Laie, Hawaii.

With this acceptance, Recommendation No. 3 of Section IV of the Planning Commission's Findings of Fact and Conclusions has been met and Recommendation Nos., 1, 2, 4, 5, and 6 in Section IV of the Planning Commission's Findings of Fact and Conclusions, dated December 4, 2018, will be incorporated as conditions in the forthcoming Planned Review Use Director's Report on BYU-H's planned campus renovations and construction.

Dated at Honolulu, Hawaii, this 22nd day of March, 2019.

DEPARTMENT OF PLANNING AND PERMITTING  
CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

By

  
Kathy K. Sokugawa  
Acting Director

Attachment

**Ka Pa‘akai Analysis**

Article XII, Section 7 of the Hawai‘i Constitution obligates the State Land Use Commission (LUC) to protect the reasonable exercise of customarily and traditionally exercised rights of native Hawaiians to the extent feasible when granting a petition for reclassification of district boundaries. In order to effectuate the State’s obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests, the Hawai‘i Supreme provided the following analytical framework as an outcome of *Ka Pa‘akai O Ka‘aina v. Land Use Commission* (94 Hawai‘i 31, 7 P.3d 1068, September 11, 2000). The framework is referred to as *Ka Pa‘akai Analysis* and consists of three parts:

1. Identify the scope of “valued cultural, historical and natural resources” in the petition area, including the extent to which traditional and customary rights and practices are exercised in the affected area;
2. Determine the extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action; and
3. Identify feasible actions, if any, that should be taken by the LUC to reasonably protect Native Hawaiian rights and practices if they are found to exist.

The Applicant, Brigham Young University – Hawai‘i (BYU-H), is processing an application to amend the SLU District Boundary to transfer approximately 14.85 acres from the State Land Use (SLU) Agricultural District into the SLU Urban District to accommodate the planned expansion of the BYU-H campus. The proposed boundary amendment involves five non-contiguous areas located adjacent to the existing SLU Urban District within TMK parcel [1] 5-5-06: 005 and 032, as listed in **Table 1** and shown on **Figure 1**. In addition, to regularize the SLU boundary, a 0.03-acre triangle located on West Road Loop Extension is proposed to transfer from the SLU Urban to Agricultural District.

**Table 1: Proposed SLU Urban District Expansion Areas**

Description	Area (ac)
North area: grassed area for expansion of married student housing (future)	0.12
Northwest area: one married student apartment (proposed) and parking lot (existing)	0.50
West area: parking lot, grassed detention area and Electric Utilities Transformer and Telecommunications Building (EUTTB) (existing)	2.70
Southeast area: Polynesian Cultural Center parking lot (existing)	1.53
South area: three single student dormitories (proposed)	10.00
<b>Total Proposed Campus Expansion Area</b>	<b>14.85</b>

On behalf of Applicant, BYU-H’s representatives, Hawai‘i Reserves, Inc. (HRI), and planning consultant, R. M. Towill Corporation (RMTC), conducted consultation with kūpuna from Lā‘ie who have knowledge of traditional cultural practices and resources in the petition area, and conducted background studies, including an archaeological inventory survey and archaeological literature review and field inspection, to assist decision makers to fulfill the *Ka Pa‘akai Analysis* requirements for the subject SLU District Boundary Amendment Application.

**Interview with Ms. Kela Ka‘io Miller and Mr. Cy M. Bridges**

On December 3, 2018, representatives for BYU-H, Mr. Eric Beaver of HRI and Mr. Jim Niemann, planner with RMT, met with Ms. Kela Ka‘io Miller and Mr. Cy Bridges at the HRI offices in Lā‘ie, O‘ahu and accompanied them on a site visit to the Petition Areas and vicinity. On February 27, 2019, Ms. Miller and Mr. Bridges met with Mr. Beaver at HRI’s office to review and approve the written record of their December 3, 2018 site visit. Mr. Niemann participated in the meeting by phone. The following information was shared by Ms. Miller and Mr. Bridges.

Ms. Kela Ka‘io Miller was born and grew up in Lā‘ie. She is a member of the Ka‘io ‘Ohana which has lived in Lā‘ie for many generations. The Ka‘io ‘Ohana is part owner, along with BYU-H, of a kuleana lot that is located within the BYU-H campus lands near the petition area. The kuleana lot was granted to her great-great grandfather Amaka Ka‘io in the 1850s and has been passed down through the generations. Ms. Miller is recognized in Lā‘ie and throughout the state as a trusted authority on traditional and contemporary Hawaiian cultural practices, as a community leader with service on the Ko‘olauloa Neighborhood Board and numerous planning advisory groups and community organizations, as a peace maker and as a repository of historical knowledge and cultural protocols in the Lā‘ie community.

Mr. Cy Bridges was born on March 3, 1951 and grew up in Lā‘ie. His family has lived in the Lā‘ie and Hau‘ula area for many generations. He is a respected kumu hula, chanter, and cultural practitioner recognized throughout the state. His halau, Hui Ho‘oulu Aloha, has participated in numerous cultural and hula events and has been recognized at the King Kamehameha Hula & Chant competition and at the Merrie Monarch Festival. Mr. Bridges was employed for over 46 years at the Polynesian Cultural Center, and retired as Director of Protocol overseeing the cultural training and presentations of all cultural areas represented at the PCC. He is fluent in the Hawaiian language and has lectured and given presentations on Hawaiian culture, cultural protocol, traditions, oral histories and especially mo‘okū‘auhau (genealogy), throughout Hawai‘i and abroad. He has served as a judge for a number of cultural events and competitions in Hawai‘i and overseas, including at the Merrie Monarch Festival. Mr. Bridges is a respected community leader having served on the O‘ahu Island Burial Council for three Administrations, on the Ko‘olauloa Neighborhood Board and on the Ko‘olauloa Planning Advisory Committee with the City and County of Honolulu.

**General Comments**

Ms. Miller and Mr. Bridges noted that before the University was developed, the project area was generally used for agriculture. It was either in sugar cane cultivation, was cultivated as part of various families’ personal garden plots, or was just naturally growing vegetation on undeveloped land. In pre-contact times, the area was populated and some of the land was cultivated in traditional fashion, including taro lo‘i and other food crops. The only traditional cultural or historic resource or *wahi pana* in the general area that Ms. Miller and Mr. Bridges are aware of is Ni‘oi Heiau. By the time they were children, the heiau was abandoned and there weren’t any cultural practitioners using the heiau for religious rituals or other cultural practices. They are aware that traditional burials were found near Ni‘oi Heiau, but otherwise aren’t aware of any traditional burials in the mauka areas or project area. Traditional burials were mostly on the shoreline. As children, they weren’t allowed to go up to the area around the heiau as it was too



remote. They were sometimes sent by their parents or elders to various areas in the project vicinity and further afield to gather plants for use in food or medical treatments, or to retrieve stray farm animals.

Following the initial discussion with Ms. Miller and Mr. Bridges at the HRI office, Ms. Miller, Mr. Bridges, Mr. Beaver and Mr. Niemann drove to each of the petition areas for additional observation and discussion about existing conditions and traditional cultural resources and practices.

**Petition Area 1**

Petition Area 1 is 0.12-acre graded, grassed area with a concrete slab, mango tree and plum tree. The grassed open space area is located north and adjacent to Temple View Apartment (TVA) Building No. 25 married student apartments. East of the grassed area is the TVA driveway and parking lot. Northeast of the area are the Na Hale Kumu 1 Faculty Townhouses. Northwest of the area is the Lā‘ie Stake Farm. A graded drainage channel runs along the west boundary of the area; further west of the area is undevelopable open space and approximately 450 feet to the southwest of the area is the Lā‘ie Wastewater Reclamation Facility (LWRF). See Photos 1 and 2.



**Photo 1 – Petition Area 1, Aerial View Looking West**



**Photo 2 – Petition Area 1, view looking west**

**Petition Area 1 observations by Ms. Miller and Mr. Bridges:**

Ms. Miller and Mr. Bridges do not remember a house at this site. The concrete slab could be remnant of the old sugar mill. They noted that plum and mango trees were planted by families throughout the area, although plum was not as common. They noted that a typical way to prepare plum is by mashing the fruit with shoyu, sugar and vinegar, or just pick it off the tree and eat it. Another plant they recognized at this site is *waiwi* (strawberry guava, *Psidium cattleianum*), which is common throughout the area. Waiwi fruit can also be eaten right off the tree. Ms. Miller and Mr. Bridges both noted that there are no known traditional cultural resources or practices at Petition Area 1.

**Petition Area 2**

Petition Area 2 is a 0.50-acre area containing a graded, grassed open space area and a portion (20 stalls) of an existing, 34-stall paved parking lot that serves the TVA 21, 22 and 23 married student apartments, and serves as a general campus parking lot managed by permit. The existing parking lot is located adjacent to TVA 21 and 22 married student apartments to the east. TVA 23 married student apartment is located across Mikioneli Way to the north. West of the parking lot is a graded and grassed open space area used for drainage detention and the recently completed extension of Mikioneli Way, which serves as a perimeter road along the west side of campus and provides access to agricultural uses further west. South of the parking lot is a continuation of the graded, grassed open space. The Stake Center and campus pavilion are located nearby to the east. See Photos 3 and 4.



**Photo 3 – Petition Area 2, view looking east-south-east**



**Photo 4 – Petition Areas 2, 3 and 4, view looking south-east.**

**Petition Area 2 observations by Ms. Miller and Mr. Bridges:**

Ms. Miller and Mr. Bridges noted that this general area used to be cultivated in sugar cane and developed as part of the sugar plantation. There were no paved roads through the area, just the agricultural roads and trails. Ms. Miller and Mr. Bridges observed that Petition Area 2 is fully developed and noted that there are no known traditional cultural resources or practices within this petition area.

**Petition Areas 3 and 4**

Petition Area 3 is a 0.03-acre area located entirely within the developed road section of Mikioneli Way. This area is proposed for reclassification from the State Land Use Urban District to the Agricultural District in order to regularize the SLU boundary at that location. Petition Area 4 is a 2.7-acre developed area that contains an existing 112-stall gravel parking lot that serves as a general campus parking lot, a graded, grassed open-space area that provides drainage detention, and an existing Electric Utilities Transformer Telecommunication Building (EUTTB). The site has been subject to land use modification from campus development and does not contain vegetation or resources that are gathered or used for customary or traditional cultural practices. North of this area are grassed open space and the northwest area parking lot. Immediately to the east, in order from north to south, are the Heber J. Grant multi-purpose building, the Jonathan Napela Center Ceramic Art Studio, and the Science Building. The west and southwest side of the area is bounded by Mikioneli Way, which separates the area from the Ethnobotanical Garden and Biology Research Area and open agricultural land. Northwest of the parking lot across Mikioneli Way is the wastewater pump station, LPG storage facility and HECO substation. The southeast end of the area abuts Hale 2 and 9 single student dormitories. See **Photos 5, 6 and 7**.

**Petition Areas 3 and 4 observations by Ms. Miller and Mr. Bridges:**

Ms. Miller and Mr. Bridges made similar observations about Areas 3 and 4 as Area 2; prior to campus development, the area was in sugar cultivation or was naturally vegetated and undeveloped. The kuleana lot owned by the Ka'io 'Ohana is located nearby, outside of the petition area. When Ms. Miller was young, access to the kuleana lot was by trail; there was no road to access the lot. The lot was not used as a residence, but was used by Ms. Miller's grandfather to gather plants. The children would sometimes be required to accompany their grandfather to the lot when their parents were away, but they generally didn't like to go there because they were not allowed to make noise or play when they were there. Instead, they were only allowed to sit or were instructed to pull weeds. Sometimes their grandfather would make a contest to see who could pull the most weeds. Road access to the kuleana lot was developed with the campus.





**Photo 5 – Petition Areas 2m 3 and 4, Aerial View Looking North**



**Photo 6 – Petition Areas 3 and 4, view looking north-east.**



**Photo 7 – Petition Area 4, view looking south-east.**

In the general vicinity of Petition Area 4 and in the areas extending up to toward the ethnobotanical garden and Ni‘oi Heiau, a variety of naturally growing plants can be found that are used for food or for lā‘au lapa‘au (traditional medical treatment):

- Pōpolo (*Solanum americanum*) – Pōpolo berries, when ripe, can be eaten. Pōpolo is also used medicinally to treat muscle and joint aches.
- Maile Hohono (*Ageratum spp.*) – Maile Hohono is a weed that can be added to water to make a medicinal tea.
- Laukahi (plantain, *Plantago major*) – Laukahi is used as a poultice for cuts and wounds, and can be prepared as a tea to treat high blood pressure.
- Kīnehe (a species of Māmaki, *Bidens pilosa*) – The white flowers and roots of Kīnehe were used to brew tea. Ko‘oko‘olau, which is also used for tea, is a close relative of Kīnehe.
- ‘Uhaloa (long thighs, *Waltheria indica*) – ‘Uhaloa is boiled and used medicinally to treat sore throats and respiratory illnesses, or simply chew on the roots and it provides relief for sore throat.
- Ha‘uōwī (*Stachytarpheta cayennensis*) – Ha‘uōwī is used for pain and fractures. Typically the root would be mashed up and applied to an injury.

These were all commonly found plants, some of which grew near the residential areas as well as in the undeveloped areas. When they were growing up, the children were often given the chore of gathering the plants. They were instructed not to collect them near roads and developed areas, but to go into the mountains where the plants were healthier and less likely to be polluted. These plants are still commonly found throughout the Lā‘ie area.

During the site visit, a kukui tree (candle nut, *Aleurites Moluccana*) was observed from the road within the agricultural land adjacent to the campus. Ms. Miller and Mr. Bridges noted that traditionally every part of the kukui tree is used for something – roots, branches, wood, leaves, bark and sap. This is true of all natural vegetation in the forest, but Mr. Bridges observed that it’s easier now to go to City Mill or Longs. The kukui tree is still commonly used medicinally. The green sap from the tree is collected in a spoon and used to treat mouth thrush. They mentioned that banana trees can be similarly used to treat mouth thrush. The roots of the kukui tree are still used to make a red dye. Kukui wood was traditionally used to make spears and variety of other implements.

A noni tree (Indian mulberry, *Morinda citrifolia*) was also observed outside of the petition area in the adjacent agricultural land. Ms. Miller and Mr. Bridges noted that noni is a canoe plant that is collected and used in lā‘au lapa‘au. Noni can be eaten or used as a poultice. A large banyan tree (Chinese banyan, *Ficus microcarpa*) was also observed in the agricultural area not far from the Ka‘io ‘Ohana kuleana lot. Ms. Miller recalled that particular banyan tree from her childhood days. Ms. Miller and Mr. Bridges observed that the petition area is fully developed and noted that there are no known traditional cultural resources or practices within this petition area.

#### **Petition Area 5**

Petition Area 5 is a 10-acre area that contains inactive agricultural land and vacant open space. In recent years, the land has been used for commercial papaya cultivation. An existing wastewater

pump station and overhead HECO power lines are located along the west boundary. Quarry Road forms the south boundary. Immediately to the north of the area proposed for development of the new single student dormitories are the existing on-campus single-student dormitory complex, Hale 3 to 10. To the west is agricultural open space, Quarry Road and Waialele Stream. An existing reuse water pump station, and HECO easement containing overhead power lines are located along the west boundary of the proposed expansion area. The south boundary is defined by Quarry Road and Waialele Stream, south of which is agricultural land. East of the area is open space, a portion of which contains the LWRF leach field. See Photos 8, 9 and 10.

Petition Area 5 observations by Ms. Miller and Mr. Bridges:

Ms. Miller and Mr. Bridges noted that Petition Area 5 and surrounding areas have been in intermittent agricultural cultivation for as long as they can remember. They observed that the perimeter areas / fence line areas are overgrown with California grass (*Brachiaria mutica*), and sorghum grass (*Sorghum bicolor* or *Sorghum halepense*) which are introduced and weren't growing in the area when they were children. They also observed kolii (*Trematolobelia singularis*) which was also used medicinally, but you have to be careful. When they were young, only certain kupuna knew how to use certain plants. Certain families had reputations for making certain medicines and you'd go to them for special needs. Very few people still use or know how to make the traditional medicines like they did in the old days. Knowledge and use of certain plants for medicinal purposes still exists, such as kukui tree sap for mouth thrush, but, a lot of the knowledge is no longer commonly practiced and the kūpuna who knew those traditional practices and uses of the plants are gone. Ms. Miller and Mr. Bridges suggested talking to Auntie Gladys (Gladys Pualoa-Ahuna, 6<sup>th</sup> generation descendant of the first settlers of Lā‘ie) about those practices.

Mr. Niermann shared information about the discovery of remnants of stone adzes and lithic scatter in Petition Area 5 during archaeological field work. Mr. Bridges noted that in the past, in pre-contact days, the whole area of Lā‘ie may have been used at one time or another by native Hawaiians living their daily lives, raising families, constructing, cultivating, making things, and losing things, just as we continue to do today. He commented that many of the residents in the area have collections of stone tools and artifacts that they've found over the years; the presence of the pre-contact tool remnants is of interest, but doesn't indicate that the areas where they are found are currently used for traditional cultural practices. Ms. Miller and Mr. Bridges noted that there are no known traditional cultural resources or practices within the Petition Area 5.





**Photo 8 – Petition Area 5 Aerial View Looking North.**



**Photo 9 – Petition Area 5, view looking north from Quarry Road.**



**Photo 10 – Petition Area 5 south boundary, view looking west along Quarry Road.**

**Petition Area 6**

Petition Area 6 contains an existing, campus access road and 127-stall paved parking lot that abuts the back entrance to the Polynesian Cultural Center (PCC). The north end of the parking lot, containing an additional 64 stalls, is located within the existing SLU Urban District. The parking lot is leased by BYU-H to the PCC for employee use and is managed by permit. A two-way access road passes through the parking lot and provides access to the back of the campus. The campus facilities shop is located adjacent to north end of the parking lot. To the west is vacant open space, a portion of which contains the LWRF leach field. Immediately south is Quarry Road, which provides access to the parking lot and separates the parking lot from agricultural uses and Waialele Stream further south. Prior to development as a road and parking lot, the area was the location of quarrying operations. See Photos 11, 12 and 13.

**Petition Area 6 observations by Ms. Miller and Mr. Bridges:**

Mr. Bridges noted that the area occupied by the parking lot was previously a quarry site during the development of the BYU-H campus and Polynesian Cultural Center. Ms. Miller and Mr. Bridges observed that the petition area has been fully developed for many years and that there are no known traditional cultural resources or practices within this petition area.



**Photo 11 – Petition Area 6, Aerial View Looking North**





**Photo 12 – Petition Area 6, view from upper parking lot looking south-east**



**Photo 13 – Petition Area 6, view from upper parking lot looking south south-west.**

**General Comments by Ms. Miller and Mr. Bridges regarding impacts and mitigation:**

Ms. Miller and Mr. Bridges agree with the following observations:

- There are no known traditional cultural resources or native Hawaiian customary and traditional practices within the petition areas and no traditional cultural resources or customary and traditional practices will be affected or impaired by the proposed project.
- It’s likely that the general area around and including the petition areas was used in the past for traditional practices, such as gathering resources for lā‘au lapa‘au or subsistence purposes, but these areas haven’t been used in that fashion for many decades.
- Access to Ni‘oi Heiau, undeveloped mauka areas where medicinal plants can still be found, and the Ka‘io ‘Ohana kuleana lot is provided via the campus road system. [Applicant note: Access to Ni‘oi Heiau for traditional cultural practitioners is preserved by BYU-H, subject to conditions established in the Ni‘oi Heiau Preservation Plan. The Preservation Plan was developed by BYU-H with guidance by the Lā‘ie Kūpuna Council and was approved by the State Historic Preservation Division.]
- The project will have no effect on access to historic and traditional cultural practices and resources.
- There are no concerns related to native Hawaiian customary and traditional cultural practices if the project proceeds.

**Interview with Aunt Gladys Ku‘ulei Puakalehua Enos Pualoa Ahuna**

On March 4, 2019, BYU-H representatives Mr. Beaver of HRI and Mr. Niermann of RMTC met with Aunt Gladys Pualoa Ahuna and her daughter Ui Pualoa at their home in Kona, island of Hawai‘i. Aunt Gladys was referred by Ms. Miller and Mr. Bridges in acknowledgement of her experience and leadership in Lā‘ie and following traditional protocol of respecting their elder kūpuna’s authority on history and culture in the community. Aunt Gladys is a sixth-generation descendant of the families who settled Lā‘ie and, at 90 years old, is currently one of the eldest living kūpuna from Lā‘ie. She was born in Honolulu and raised in Lā‘ie her entire life except for two or three years when she worked in Honolulu and the past few years that she has lived with her daughter Ui Pualoa in Kona. She lived in Lā‘ie as it transformed from a small village of several hundred mostly Hawaiian and Samoan families to its current population of approximately 6,000. She worked as a clerk in the Lā‘ie Post Office for over 20 years before becoming Postmaster of the Ka‘a‘awa Post Office and ultimately Postmaster of the Lā‘ie Post Office. Throughout her years she has been an active member and leader in the Lā‘ie community, serving on the P.T.A., including as President, on the Ko‘olauloa Hawaiian Civil Club, and the Lā‘ie Community Association including as President. She actively participated with the community in the *Hukilau* to raise funds to build the Lā‘ie Chapel of the Church of Jesus Christ of Latter Day Saints, and in the development of the Polynesian Cultural Center. She experienced the development, dedication and growth of the BYU-H campus and related changes in Lā‘ie. Aunt Gladys is a respected repository of the history and cultural traditions and practices in Lā‘ie.

Aunt Gladys shared the following information about the general project area and petition areas.

References used in the interview included an aerial photographic map of the campus and surrounding area with the petition areas outlined, and ground-level photographs of the petition areas.

Aunty Gladys noted the Temple building on the aerial map and noted that to the left (south) of the Temple lived the Ka'io, Kanahele and Kekauoha families, and to the right (north) of the temple lived the Pukahi, Apuakehau, Kamauoha and Nainoa families. Aunty Gladys is a Nainoa, daughter of Sophia Nainoa Ke'a. She noted that the area now occupied by the Temple View Apartments, including Petition Areas 1 to 4, was pasturage for cows owned by a Mr. Uale, or in sugar cane cultivation or overgrown with wild vegetation. Uale's cows would often get loose and eat the plants in her yard. She recalls the train tracks that ran through what is now the BYU-H campus when it was in plantation use. (Note: The train tracks are documented in the 2017 Archaeological Inventory Survey prepared for the project. The train tracks ran generally north-south and were located east of Petition Areas 1 through 4 and through approximately the middle of Petition area 5. No evidence of the train tracks was found during the survey).

Aunty Gladys identified two cultural resources in the general area. One is Ni'oi Heiau, which is located west and mauka from the petition area. It was abandoned, overgrown and not used for ceremonial or other cultural purposes in her lifetime or, to her knowledge, in present day. The second is Waiapuka, which is a natural inland pool formed by a hole in the underlying reef geology, fed by groundwater and influenced by the ocean waves and tides. Waiapuka is a historical place where the twins Laicikawai and Laielohelohe were born. Waiapuka is located at the north end of Lā'ie, near the City and County of Honolulu Baseyard, nearly a mile away from the petition areas.

#### Comments by Aunty Gladys on the Petition Areas

Aunty Gladys looked at each of the six Petition Areas on the aerial map in turn and for each area stated that to her knowledge, there were no ceremonial or traditional cultural practices occurring in those areas when she was growing up and there are no ceremonial or traditional cultural practices occurring there today. She mentioned that near Petition Area 5 and Wailele Stream, when she was young, they would sometimes collect wild pāpapa beans (hyacinth bean, *Dolichos lablab/Lablab purpureus*, similar to soy and lima beans) to eat.

#### General Comments by Aunty Gladys regarding impacts and mitigation:

Aunty Gladys agrees with the following observations:

- The information and observations shared by Kela Miller and Cy Bridges is, to her knowledge, correct and true.
- There are no known traditional cultural resources or native Hawaiian customary and traditional practices within the petition areas and no traditional cultural resources or customary and traditional practices will be affected or impaired by the proposed project.
- It's likely that the area around and including the petition areas was used for traditional gathering practices, such as gathering resources for lā'au lapa'au or subsistence purposes, but these areas haven't been used in that fashion for many decades.

- The project will have no effect on access to historic and traditional cultural practices and resources.
- There are no concerns related to native Hawaiian customary and traditional cultural practices if the project proceeds.

#### **Ka Pa‘akai Analysis Determination**

The following determination is based on the information provided in the kūpuna interviews, the archaeological inventory survey and archaeological literature review and field inspections prepared for project, and documentation of current conditions in the petition areas.

#### **Cultural Resources and Traditional Cultural Practices**

The only known traditional cultural property (TCP) within the BYU-H campus property and the vicinity of the SLUDBA petition areas is the Ni‘oi Heiau, which is located approximately 1,000 feet to the west of the proposed 2.70-acre SLU Urban District expansion area. Ni‘oi Heiau is accessible through the BYU-H campus via Kulanui Street, the Academic Oval drive, Mikioneli Way and a dirt agricultural road, and is part of an area that is overseen by the BYU-H’s Hawaiian Studies Program. In 2010, the University, with the guidance of the Lā‘ie Kūpuna Council, developed and submitted to the DLNR the attached *Long-Term Preservation Plan for Ni‘oi Heiau*. The plan addresses access and maintenance, among other things and was approved by the State Historic Preservation Division (SHPD).

There are no traditional cultural practices in the petition areas. There are plants on the undeveloped lands in the vicinity of the petition areas that are traditionally used for medicinal, cultural and subsistence purposes, however these plants are common throughout the region and the project will not affect access to these resources. BYU-H is developing an ethnobotanical garden in the agricultural lands near the petition area as part of its Hawaiian Studies program to propagate plants used for traditional cultural purposes and to perpetuate knowledge about their use. The ethnobotanical garden program will not be affected by the project.

#### **Historic Resources**

The SLUDBA application document presents the findings of a 2017 Draft Archaeological Literature Review and Field Inspection (LRFI) report prepared by Cultural Surveys Hawai‘i, Inc. for the proposed campus expansion and SLUDBA application. A copy of the Draft LRFI is included in the SLUDBA application as Exhibit F.8. The Draft LRFI was received by the SHPD for review on September 6, 2017 (see enclosed Submittal Sheet for Historic Preservation Review Filing Fees). No surface historic properties were observed during the field inspection, and the LRFI determined that evidence of prior land use within the project area(s) had likely been removed or destroyed by subsequent land alterations, and therefore the proposed project will likely have no effect on historic properties. The LRFI recommended consultation with the SHPD to determine what, if any, historic preservation requirements are indicated.

In addition to the 2017 LRFI, an Archaeological Inventory Survey (AIS) report was prepared by Scientific Consultant Services Inc. (SCS) in 2012 for various locations outside of the SLU Urban District within the BYU-H PRU boundary, including portions of the proposed expansion area. An archaeological site, State Inventory of Historic Places (SIHP) Site No. 50-80-02-7298, was identified within the 10.00-acre Petition Area 5. SIHP No. 50-80-02-7298 consists of traditional-

type lithic scatter including 31 basalt and volcanic glass artifacts. State Site 50-80-02-7298 has been evaluated according to the criteria established for the Hawai‘i State Register of Historic Places (HAR§13-275-6) and was determined to be significant under Criterion D, for information content. The lithic scatter material documented in the 2012 report was collected during the field work and is no longer present at the site; the material is being curated by SCS.

On September 11, 2018, a meeting was held among Dr. Susan Lebo (SHPD, Archaeology Branch Chief); Morgan Davis (SCS); Franz Krainz (Department of Planning and Permitting, Planning Branch) and Jim Niemann of RMTc, planning consultant and representative for BYU-H, to discuss the current project and Hawaii Revised Statutes Chapter 6E Historic Preservation requirements. Based on the information provided in the submittal and consultation meeting, SHPD has no objections to BYU-H’s request to amend the SLU District Boundary to transfer approximately 14.85 acres from the SLU Agricultural District into the SLU Urban District to accommodate the planned expansion of the BYU-H campus. (See enclosed letter from SHPD dated September 12, 2018.)

#### **Determination**

Based on consultation with Lā‘ie kūpuna with knowledge regarding native Hawaiians’ exercise of customary and traditional practices in the petition area and vicinity, consultation with the SHPD and the findings of the resource studies, the proposed 14.85-acre SLUD Boundary Amendment is not anticipated to affect the rights customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians, and does not affect or impair any Hawai‘i State Constitution, Article XII, Section 7 uses, or the feasibility of protection of those uses.

The Applicant, BYU-H, will ensure continued access by native Hawaiians to Ni‘oi Heiau in accordance with the conditions set forth in the approved *Long-Term Preservation Plan for Ni‘oi Heiau*, and will ensure continued access by the Ka‘io ‘Ohana to the jointly owned kuleana lot located near, but outside of the petition areas.

#### **Enclosures:**

- Authorization forms signed by the interviewees
- Figure 1 – BYU-H Campus Expansion SLUDBA Petition Areas
- *Long-Term Preservation Plan for Ni‘oi Heiau*
- SHPD letter dated September 12, 2018 [Log No. 2018.01747, Doc No. 1809GC10]

**James A. Niemann** AICP, LEED AP  
Project Coordinator

Telephone 808 842 1133  
Fax 808 842 1937  
eMail JimN@rmtowill.com  
Website www.rmtowill.com



**R. M. TOWILL CORPORATION**  
SINCE 1930

Planning • Engineering • Environmental Services  
Photogrammetry • Surveying • Construction Management

2024 North King Street  
Suite 200  
Honolulu Hawaii  
96819-2404



**AUTHORIZATION FORM**

Brigham Young University – Hawai'i (BYU-H), is processing an application to amend the SLU District Boundary to transfer approximately 14.85 acres from the State Land Use (SLU) Agricultural District into the SLU Urban District to accommodate the planned expansion of the BYU-H campus. On behalf of BYU-H, Hawai'i Reserves, Inc. (HRI) and R. M. Towill Corporation (RMTc), are conducting consultation with kūpuna, kama'āina and cultural practitioners who have knowledge of traditional cultural practices and resources in the petition area to assist decision makers to fulfill the *Ka Pa'akai Analysis* requirements for the subject SLU District Boundary Amendment Application. The *Ka Pa'akai Analysis* is for the purpose of identifying and protecting native Hawaiian customary and traditional practices in accordance with Article XII, Section 7 of the Hawai'i Constitution [Reference: *Ka Pa'akai O Ka'aina v. Land Use Commission*, 94 Haw. 31 (2000).]

Brigham Young University – Hawai'i (BYU-H) appreciates the generosity of the kūpuna who are sharing their knowledge of cultural and historic resources and places, and experiences of past and present cultural practices. We understand our responsibility in respecting the wishes and concerns of interviewees participating in these interviews. We promise:

- To respect your right to review and make any additions, deletions or corrections to the information that you provide at any time that you wish.
- To give you a copy of the interview notes, the final *Ka Pa'akai Analysis* report with information from your interview and a copy of this authorization form.

BYU-H asks for your written consent to use the information you shared, including notes and quotes from the interview, for public reports on cultural sites and practices, including for the *Ka Pa'akai Analysis* report.

**Authorization**

I, Kekela Miller (name),  
give my consent for the use of information I provided in the interview held on  
2/27/2019 (date). I have been given an opportunity to review the content used in the  
*Ka Pa'akai Analysis* report and agree that to the best of my knowledge the information as  
presented accurately represents my experience and input about customary and traditional cultural  
resources and practices in the project area.

Kekela Miller  
Signature

3/5/2019  
Date

**AUTHORIZATION FORM**

Brigham Young University – Hawai'i (BYU-H), is processing an application to amend the SLU District Boundary to transfer approximately 14.85 acres from the State Land Use (SLU) Agricultural District into the SLU Urban District to accommodate the planned expansion of the BYU-H campus. On behalf of BYU-H, Hawai'i Reserves, Inc. (HRI) and R. M. Towill Corporation (RMTC), are conducting consultation with kūpuna, kama'āina and cultural practitioners who have knowledge of traditional cultural practices and resources in the petition area to assist decision makers to fulfill the *Ka Pa'akai Analysis* requirements for the subject SLU District Boundary Amendment Application. The *Ka Pa'akai Analysis* is for the purpose of identifying and protecting native Hawaiian customary and traditional practices in accordance with Article XII, Section 7 of the Hawai'i Constitution [Reference: *Ka Pa'akai O Ka'āina v. Land Use Commission*, 94 Haw. 31 (2000).]

Brigham Young University – Hawai'i (BYU-H) appreciates the generosity of the kūpuna who are sharing their knowledge of cultural and historic resources and places, and experiences of past and present cultural practices. We understand our responsibility in respecting the wishes and concerns of interviewees participating in these interviews. We promise:

- To respect your right to review and make any additions, deletions or corrections to the information that you provide at any time that you wish.
- To give you a copy of the interview notes, the final *Ka Pa'akai Analysis* report with information from your interview and a copy of this authorization form.

BYU-H asks for your written consent to use the information you shared, including notes and quotes from the interview, for public reports on cultural sites and practices, including for the *Ka Pa'akai Analysis* report.

**Authorization**

I, GLADYS K. PUGHOL-ENOS AHUAT (name),  
give my consent for the use of information I provided in the interview held on  
4 May 2019 (date). I have been given an opportunity to review the content used in the  
*Ka Pa'akai Analysis* report and agree that to the best of my knowledge the information as  
presented accurately represents my experience and input about customary and traditional cultural  
resources and practices in the project area.

Signature

Date



**AUTHORIZATION FORM**

Brigham Young University – Hawai'i (BYU-H), is processing an application to amend the SLU District Boundary to transfer approximately 14.85 acres from the State Land Use (SLU) Agricultural District into the SLU Urban District to accommodate the planned expansion of the BYU-H campus. On behalf of BYU-H, Hawai'i Reserves, Inc. (HRI) and R. M. Towill Corporation (RMTC), are conducting consultation with kūpuna, kama'āina and cultural practitioners who have knowledge of traditional cultural practices and resources in the petition area to assist decision makers to fulfill the *Ka Pa'akai Analysis* requirements for the subject SLU District Boundary Amendment Application. The *Ka Pa'akai Analysis* is for the purpose of identifying and protecting native Hawaiian customary and traditional practices in accordance with Article XII, Section 7 of the Hawai'i Constitution [Reference: *Ka Pa'akai O Ka'aina v. Land Use Commission*, 94 Haw. 31 (2000).]

Brigham Young University – Hawai'i (BYU-H) appreciates the generosity of the kūpuna who are sharing their knowledge of cultural and historic resources and places, and experiences of past and present cultural practices. We understand our responsibility in respecting the wishes and concerns of interviewees participating in these interviews. We promise:

- To respect your right to review and make any additions, deletions or corrections to the information that you provide at any time that you wish.
- To give you a copy of the interview notes, the final *Ka Pa'akai Analysis* report with information from your interview and a copy of this authorization form.

BYU-H asks for your written consent to use the information you shared, including notes and quotes from the interview, for public reports on cultural sites and practices, including for the *Ka Pa'akai Analysis* report.

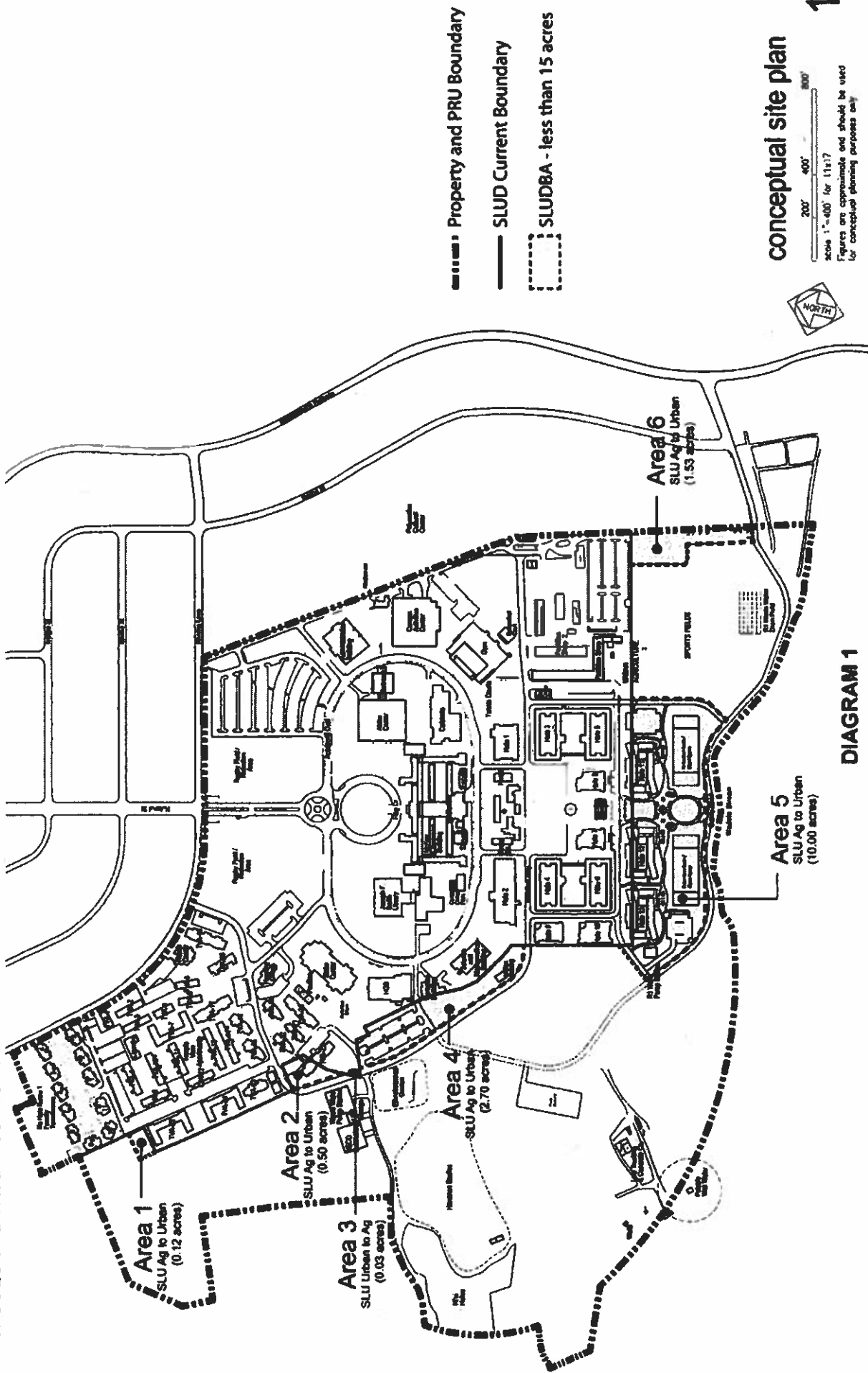
**Authorization**

I, CY BRIDGES (name),  
give my consent for the use of information I provided in the interview held on  
27<sup>th</sup> Feb 2019 (date). I have been given an opportunity to review the content used in the  
*Ka Pa'akai Analysis* report and agree that to the best of my knowledge the information as  
presented accurately represents my experience and input about customary and traditional cultural  
resources and practices in the project area.

Signature

Date

FIGURE D.1. BYU-H CAMPUS EXPANSION AREA MAP



# **LONG-TERM PRESERVATION PLAN**

## **NI'OI HEIAU, SITE 281**

Prepared by  
Jonathan Napela Center for Hawaiian and  
Pacific Islands Studies  
Brigham Young University Hawai'i  
La'ie, Hawai'i

June 30, 2010

Prepared for the  
Honolulu City Council and State Historic Preservation Division  
Department of Land and Natural Resources

# **CONTENTS**

---

SUMMARY .....	1
DELAY IN FILING .....	1
PLAN PROCEDURES .....	2
LONG-TERM PLAN OBJECTIVES .....	2
PLAN DELINEATION .....	3
COMMUNITY INPUT .....	3
SITE TOPOLOGY .....	4
RECOMMENDATIONS	
I. PRESERVATION .....	4
a. Maintenance.....	5
b. Fencing .....	5
c. Continuous Ongoing Study .....	6
II. PUBLIC ACCESS.....	6
III. SIGNAGE.....	8
IV. BURIAL TREATMENT PLAN.....	8
CONCLUSION .....	9
SOURCES .....	9
Exhibit A – Map of Archaeological of Site 281 (4460) in La'ie.....	12
Exhibit B – Close up Map of 281 (4460) in relation to LWRF .....	13

## **SUMMARY**

This report outlines the long-term comprehensive plan for preservation of the Ni'oi heiau Site 281 (in McAllister, 1933, same as Site 4460 in Dunn and Rosendahl, 1992), in compliance with the State Historic Preservation Division's standard procedures. It represents the combined efforts and commitment of Brigham Young University Hawai'i and Hawaii Reserves Inc. (HRI), to the La'ie Community, the City and County of Honolulu, and the State of Hawai'i.

The long-term plan presents a follow-up to the Final Interim Preservation Plan (FIPP) filed on February 5, 1996 by Hawaii Reserves Inc. This report is submitted by Brigham Young University Hawai'i with advisement from HRI. BYUH is the legal owner of the land, and the Hawaiian Studies program in the Jonathan Napela Center for Hawaiian and Pacific Islands Studies at BYUH will assume primary responsibility for preservation of Ni'oi heiau.

## **DELAY IN FILING**

As proposed in the FIPP it had been HRI's intent to work closely with the newly created Hawaiian Studies program (1998) to incorporate the Ni'oi heiau into its academic and cultural enrichment objectives. Completing the final plan also necessitated handing off the creation of the plan from HRI, who wrote the FIPP, to BYUH. Mitigating factors which included the long-term illness of the late Director of the Hawaiian Studies program, William Kauaiwiulaokalani Wallace, culminating in his passing, delayed completion and filing of the long-term plan.

During the period since the filing of the FIPP (1996) until now, Ni'oi heiau has remained undisturbed with Hawaiian Studies staff watching over the area and ensuring that no activity on the heiau other than periodic visits by staff, faculty accompanied students, and local kupuna. The site remains in a natural state. There have been no disturbances to the site since the interim report with the exception of minimal restorative effort to clear some brush leading up to the heiau.

In September 2009, HRI brought the issue regarding the overdue long-term plan and the need for it to be filed with the Department of Land and Natural Resources (DLNR) to the attention of the new director of the Napela Center for Hawaiian and Pacific Islands Studies, Dr. Hiagi M. Wesley. Since that time the center has researched the archaeological, historical, and ethnographic documents, and has sought community input from the local La'ie Kupuna Council in order to provide an informed long-term plan.

## **PLAN PROCEDURES**

In accordance with its commitment to the La'ie Community, the City and County of Honolulu, and the State of Hawai'i, HRI agreed to a two-step process of site preservation. The first step was the filing of the FIPP (February, 1996) with the Division of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD).

The second step called for a long-term plan for the preservation of the Ni'oi heiau. The Napela Center for Hawaiian and Pacific Islands Studies at BYUH has assumed responsibility for creation of the long-term plan in consultation with HRI.

## **LONG-TERM PLAN OBJECTIVES**

The Long-Term Plan for Site 281 (4460) focuses on four main objectives:

- (1) Provide a responsible preservation and maintenance plan for Site 281.
- (2) Accessibility to the site - Provide appropriate access with proper limitations that balances the public's desire to visit the site against safety considerations and the need to protect it from damage.
- (3) Signage designating the site – Determine appropriateness of signage if at all, and verbiage if necessary.
- (4) A burial treatment plan for previously identified skeletal remains inadvertently discovered during quarrying (1995).



## **PLAN DELINEATION**

The Long-Term Preservation plan does not:

- o Address other identified historical sites in the ACS (Area of Cultural Significance), but will be restricted to the Ni'oi heiau on BYUH property.
- o The LWRF (La'ie Water Reclamation Facility) began its new operations on 27 June 1997. Since that time such factors as dust, noise, view and odor do not pose an unwarranted nuisance or danger to the Ni'oi heiau.
- o Since quarrying activities ceased upon finding the *iwi* on 10 May 1995, the threat to the site raised in the FIPP (1996) no longer remains. HRI monitors and ensures that no activity in the adjacent area affects the Ni'oi heiau.

## **COMMUNITY INPUT**

This Long-Term Plan was developed out of discussions with and feedback from the La'ie community and the La'ie Kupuna Council in a variety of meetings. Similar recommendations by the community found in a preliminary draft report produced by HRI (September, 1996) were included with the current recommendations of the council.

The La'ie Kupuna Council members were invited to attend a meeting called by the Napela Center on the BYUH campus, March 1, 2010. Additionally, the La'ie Kupuna Council met on at least two occasions at Kahua'ola, below Site 281(at 4458), to deliberate and make decisions independently. In the two independent meetings, key kupuna including Gladys Pualoa Auna, Kela Miller, Ahi Logan, Cy Bridges and Mr. and Mrs. Randolph Kekau'oha, and Dawn Wasson attended. In the last meeting on March 10 Joe Ah Quin joined the same individuals identified above. Dawn Wasson was contacted but did not attend. Cy Bridges served as the spokesman for the Kupuna and relayed the feelings and decisions of the group to the BYUH Napela Center director.

## **SITE TOPOLOGY**

The Ni'oi heiau, Site 281 (4460) sits on a discrete topographical feature 195 feet high. On the kai-side (east) and northern side of the site, the abrupt cliffs and tall jarring coral outcropping create a natural barrier to accessing the Ni'oi heiau. On the southern side facing the old quarry the steep rise in the hill as well as the thick stands of California grass, cane, *koa* and *hau* trees serve as natural deterrents for intruders. On the mauka-side (west), *koa* and *hau* trees as well as thick stands of reeds and bushes make accessibility prohibitive. The site is separated from the LWRF by about 340 to 350 feet with an uneven and upward gradation including vegetation (FIPP pp. 3-4).

## **RECOMMENDATIONS**

### **I. PRESERVATION**

Preservation is....the act or process of utilizing procedures to maintain the existing form, integrity, and material of a structure, and the existing form and vegetative cover of a site (36 CFR Part 60.2[b]).

Consistent with this definition of preservation and the recommendations of archaeological consultants, Dunn and Rosendahl (1992) and Mitchell (Memorandum 1995), BYUH Hawaiian Studies will preserve Site 281 "as is". This applies to the structure and its natural topology including the vegetation.

It is also the expressed decision of the La'ie Kupuna council that this site, viewed by the Hawaiians as sacred, should remain in its "natural state" for this represents "the ancestors' way of keeping sacred places." (Cy Bridges, March 18, 2010)

In order to preserve the Ni'oi heiau in its natural state, the subsequent recommendations will be followed:

Most of the existing vegetation will be left in place as it adds to the physical protection of the site. The buffer that surrounds the site averages over 100 feet and will remain in perpetuity. Most of the buffer comprises dense tree cover and lower vegetation such as *hau*.

BYUH Hawaiian Studies will continue to safeguard the Ni'oi heiau "as is" within the recognized buffer. This will include regular monitoring of the site to ensure that current conditions are maintained and that there are no imminent disturbances.

#### **A. MAINTENANCE**

The Hawaiian Studies program of the Napela Center at BYUH will be responsible for the maintenance of the Ni'oi heiau. This will include consistently removing any litter and unwanted debris from the site. This maintenance plan includes identification of the unsafe or deteriorated portions of the site and development of a plan to strengthen it by adhering to state law.

Clearing or removal of the vegetation on the Ni'oi heiau is prohibited since it could disturb and possibly alter the topographical surface or compromise the vulnerable archaeological remains of the Ni'oi heiau.

The only clearing permitted will be at the base of outcropping on the side facing the LWRF, well removed from the heiau structure on the top. Students from BYUH Hawaiian Studies program and members of the La'ie community will clear the *hale koa* trees and debris.

#### **B. FENCING**

Since the Ni'oi heiau is to be left in its natural state, and because natural barriers protect the north and east facing boundaries, it is the consensus of the interested parties to erect an inconspicuous barrier fence of a single cable to run the length of west and south borders. This is to prevent encroachment by farming activities in the area and inhibit inadvertent encroachment on to the property. The La'ie Kupuna Council and BYUH have determined this simple barrier will protect the sight while avoiding a more prominent fence that may draw curiosity seekers and entice unauthorized guests to the Ni'oi heiau. The orange construction fence erected on the south slope to delineate Site 281 during the quarrying period is no longer needed since such activities have ceased. The remains of this fence will be removed.

### **C. CONTINUOUS ONGOING STUDY**

The Hawaiian Studies program will actively study the flora and fauna, the topographical formation, as well as the historical and cultural features of the Ni'oi heiau to preserve Site 281. The program will continue to incorporate as part of its ongoing and long-range curriculum the study of Ni'oi heiau through collaborative efforts with other professionals from within and outside the university, including botanists, geologists, historians, and archaeologists. Continuous study will help address questions concerning the history and cultural significance of the site. The Hawaiian Studies program may publish information explaining any findings from time to time.

To ensure maintenance of the Ni'oi heiau's natural state any efforts by the BYUH Hawaiian Studies program to conduct research or improve interpretation of Site 281 shall meet the requirements set forth in the DLNR-SHRD administrative rules.

### **II. PUBLIC ACCESS**

In determining public access to Site 281 (4460), it is important to consider the following factors contained in the FIPP (1996):

- 1) there is no documented history of a continuous thread of use, even intermittently, of the site as a heiau where human sacrifices were conducted; 2) the site is remote enough that an unsupervised general accessibility plan might encourage rather than discourage visitation... 3) since the raising of the Ni'oi heiau issue, there has been added damage done to the site by itinerant curiosity seekers; and 4) that the site and its access roads are on private property, and that the landowner has a stewardship and liability over that property.

Therefore, any and all plans for accessibility must be tempered by equal concerns for preservation and protection of the site, lest accessibility lead to irreversible damage to the Ni'oi heiau. (FIPP, p.6)

The report also identifies the need for the landowner's protection from possible liability due to injury to people visiting or staying at Site 281. (FIPP, p.6)

The Ni'oi heiau will not be locked. It will be used by the students and faculty of BYUH as a classroom to learn and study about the history of Hawaiian people and their environment.

It will be open to restricted visitors who must adhere to the following:

1. Submit written requests for reasonable and non-confrontational access to Site 281 to the Director of the Jonathan Napela Center for Hawaiian and Pacific Islands Studies program.
2. Visitors will be required to complete the Assumption of Risk and Limited Release Agreement which include the requirements for visiting the Ni'oi heiau. Any visitors to the site must sign a release and waiver acknowledging that they are on private property, and are entering at their own risk.
3. Visiting hours to the Ni'oi heiau will be from 8 a.m. – 5 p.m., Monday through Friday, or at other appropriate times by special arrangement with the Director of the BYUH Jonathan Napela Center.
4. Visitors must adhere to HRS Chapter 6E-11 governing historic properties on private lands. They must not take, move, remove, or wrap rocks at Site 281 or commit any waste on or damage to the premises.
5. Visitors will not be allowed to cut, deface, or damage the vegetation and topographical features of the site.
6. Visitors will not commit any activity that may resemble or be related to a *luakini* (human sacrifice), or perform any activity that is illegal or prohibited by law.
7. Visitors will not build fires on the site. This might destroy the site or alter the overall topographical forms.
8. Visitors will not hold parties or any type of activity which will detract from the sacredness of the Ni'oi heiau.
9. Visitors will not be allowed to camp or stay overnight on the site.

10. Visitors to the site will be accompanied by a regular full-time employee of the Hawaiian Studies Program.

11. Visitors will be prosecuted for trespassing on the property or failure to comply with the specific conditions outlined above.

### **III. SIGNAGE**

Reiterating the preservation plan to leave the site in its natural state, the La'ie Kupuna Council and the landowner (BYUH) recommend **signage should not be used** to designate the location of the Ni'oi heiau. Usage of signs will draw undue attention to the heiau and may invite unwanted intruders.

Commensurate with this recommendation, plaques, monuments or any type of symbol or physical feature resembling that of a sign will be prohibited at Site 281.

### **IV. BURIAL TREATMENT PLAN**

Active bulldozing at the quarry ceased in May, 1995. A memorandum from Sara Collins, Ko/La/Mo Archeologist, dated 12 May 1995, indicates that bones turned up by these activities were recovered at three locales. These remains were subsequently reinterred in the La'ie Cemetery under direction of the State Historic Preservation Division. Since that date the sites for the discovered graves have been left intact and remain undisturbed with vegetation cover making the sites now unrecognizable. BYUH Hawaiian Studies proposes that any residual skeletal remains be left at Site 281 undisturbed and protected by the natural buffers comprised of heavy vegetation growth and the steep embankment. No activity will be permitted around or near the burial sites including cleaning or removal of vegetation.

## **CONCLUSION**

This Long-Term Plan will ensure that the BYUH Hawaiian Studies Program retains responsibility for the maintenance and preservation of the Ni'oi heiau. Integrating the study of the heiau into the program's curriculum will increase knowledge about Hawaiian history and culture. Learning about the natural flora and fauna, topographical forms and the cultural significance of the site will provide increased knowledge to students and the community.

The Long-Term Plan represents collaboration between the university and the La'ie Kupuna Council. The council members want to preserve the Ni'oi heiau as a sacred location. They do not want the property desecrated or used inappropriately. They wish for the BYUH Hawaiian Studies program to assume full responsibility for the overall protection and maintenance with continued input from the community and council.

## **SOURCES**

---

Collins, Sara. Ko/La/Mo Archeologist, Memorandum, Report of Field Visit to Vicinity of Nioi Heiau, La'ie, Ko'olaupia, O'ahu. 12 May 1995.

Consent Decree, United States District Court for the District of Hawaii, Civil No. 90-00638 HMF, (1990).

Dunn, Amy E. and Paul H. Rosendahl. Archaeological Inventory Survey La'ie Master Plan Project: Lands of Malaekahana and La'ie Ko'olaupia District, Island of Oahu. PHRI Report 878-012292. Prepared for Group 70 International, Inc. (1992).

DLNR (Department of Land and Natural Resources-State of Hawaii)

Hammatt, Hallet H., Ph.D. Archaeological Survey of the La'ie Sewer Plant with Historical Background on la'ie Ahupua'a, Cultural Surveys Hawaii, September 1991.

Hawaii Administrative Rules, Title 13, Subtitle 6, Chapters 146-153 (Proposed Draft Rules) and Subtitle 13, Chapter 300.

Hawaii Reserves, Inc., Final Amended Supplemental Environmental Impact Statement for the La'ie Water Reclamation Facility, (October 1995).

Hawaii Revised Statutes, Section 6E-43.6 (1995).

Hawaii Reserves, Inc., Final Interim Preservation Plan: Nioi Heiau and Surrounding Sites. (February 1996) Laie Water Reclamation Facility Project.

Hawaii Reserves, Inc., Draft Long-Term Preservation Plan: Nioi Heiau and Surrounding Sites, La'ie Water Reclamation Facility Project. La'ie, Ko'olaupia District, Oahu. (Sept. 5, 1996).

Hibbard, Don. Letter to R. Eric Beaver, Esquire, Hawaii Reserves, Inc., "Historic Preservation Division Review – Interim Preservation Plan, La'ie Water Reclamation Facility Project (Hawaii Reserves, Inc.), La'ie, Ko'olaupia District, Oahu, TMK: 5-5-06: par. 1, 5, 33, January 30, 1996.

Hibbard, Don. Letter to Lea Hong, Esquire, Sierra Legal Defense Fund, Inc. "State Historic Preservation Division Comments on Documents Submitted on the Draft Amended Supplemental Environmental Impact Statement for the La'ie Water Reclamation Facility. (Hawaii Reserves, Inc.) December 1, 1995.

Hibbard, Don. Letter to Dr. Paul H. Rosendahl, Paul H. Rosendahl, Inc. "State Historical Preservation Review – Ethnographic Study for Amended Supplemental EIS, La'ie Wastewater Reclamation Facility." December 1, 1995.

McAllister, J. Gilbert, Archaeology of Oahu, Bernice P. Bishop Museum Bulletin 104, Honolulu, Hawaii (1933).

Mitchell, Rudy. Letter to and personal interview with Eric Beaver regarding his visit to sites 4454 and 281 entitled, "Name Nioi Redefined." December 22 and 27 1995; Memorandum re preservation of Site 281, January 19, 1996; and Memorandum re Burial Treatment Plan, Traditional Hawaiian Burial customs, and Draft long-Term Preservation Plan for Site 281, September 1, 1996.



**Napoka, Nathan, SHPD. Letter to Ralph Portmore, AICP, Group 70 International, Inc. "State Historic Preservation Review – Draft Amended Supplemental Environmental impact Statement for the La'ie Water Reclamation Facility, Hawaii Reserves, Inc., (October 9, 1995).**

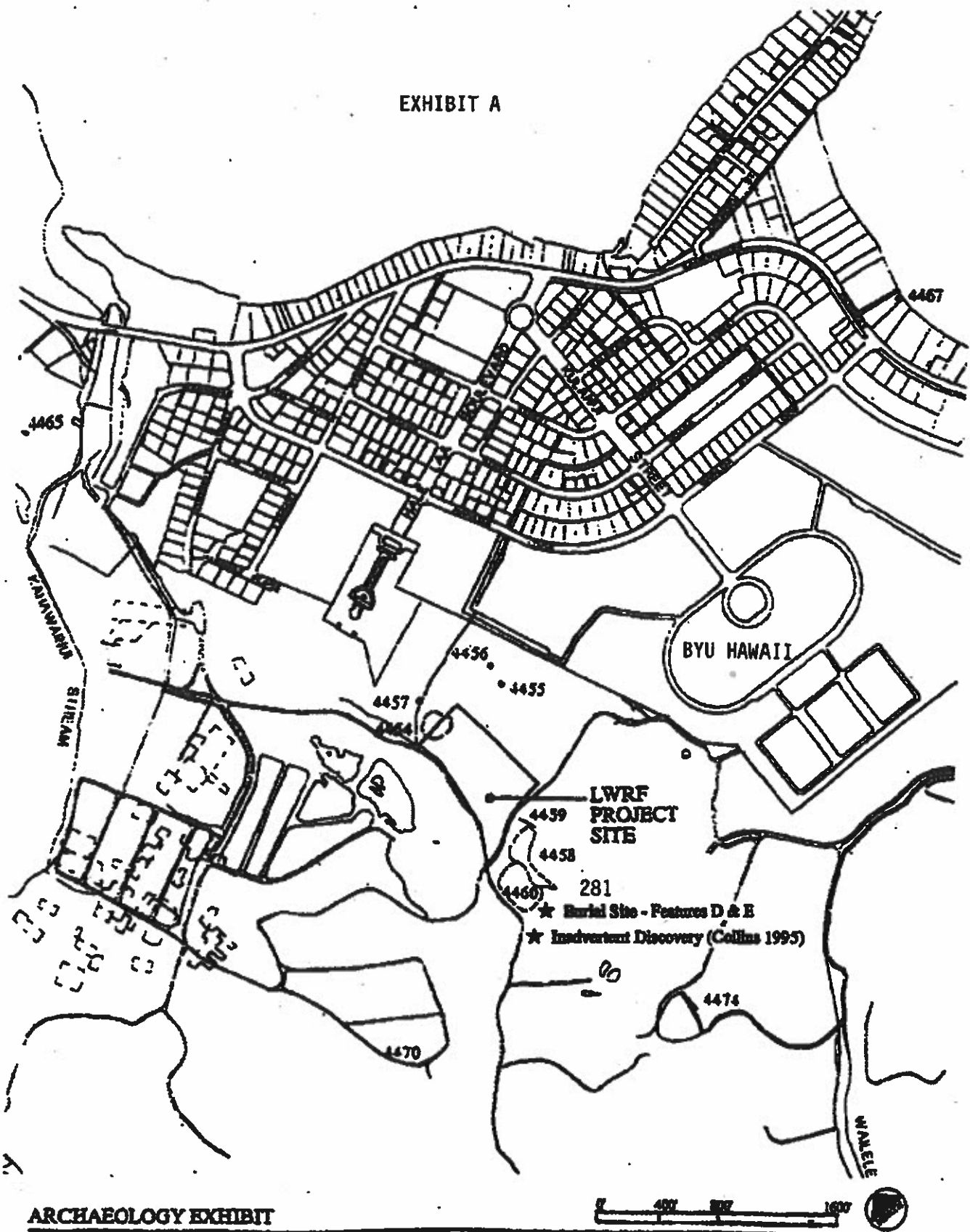
**Putnam, Danielle, Group 70 International, Inc. Letter to Lucky Fonoimoana "Burial Mitigation plan for Reburial of Human Skeletal Remains," (August 3, 1992).**

**Ordinance 95-65 and 95-66, City and County of Honolulu, (November 21, 1995).**

**Reburial Agreement, Contract between Zions Securities and the State of Hawaii, Board of Land and natural Resources, Regarding skeletal remains of unidentified individual(s) inadvertently discovered on Zions Securities property with a provision to provide perpetual protection to the reburial site, (August 12, 1993).**

**Wallace, William K. III. Memorandum Preservation and Stabilization of Nioi Heiau, April 27, 1995.**

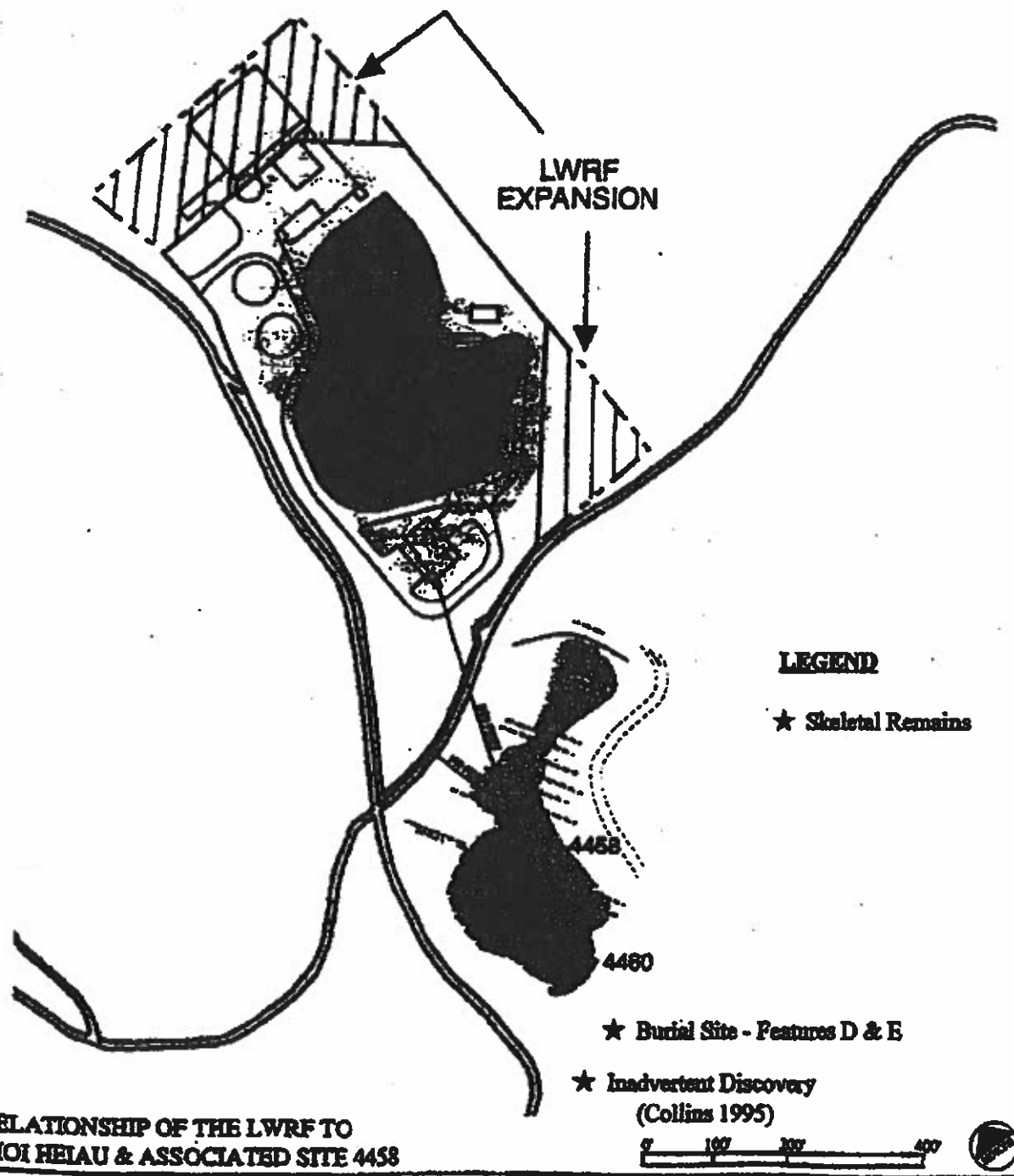
EXHIBIT A



ARCHAEOLOGY EXHIBIT

LAIE WATER RECLAMATION FACILITY SEIS

EXHIBIT B



RELATIONSHIP OF THE LWRP TO  
NIOI HEIAU & ASSOCIATED SITE 4458

LAIE WATER RECLAMATION FACILITY SEIS

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCES MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCES MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES IMPROVEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOHOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

September 12, 2018

Russell Y. Tsuji, Land Administer  
Land Division, Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809  
c/o [Lydia.M.Morikawa@hawaii.gov](mailto:Lydia.M.Morikawa@hawaii.gov)

IN REPLY REFER TO:  
Log No. 2018.01747  
Doc No. 1809GC10  
Archaeology

Raymond Young, Acting Chief  
Department of Planning and Permitting, City and County of Honolulu  
Community Planning Branch  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, HI 96813  
c/o [fgcraintz@honolulu.gov](mailto:fgcraintz@honolulu.gov)

Dear Mr. Tsuji and Mr. Young:

**SUBJECT: Chapter 6E-42 Historic Preservation Review-  
Request for Comments – Petition for a State Land Use District Boundary Amendment  
Of Less than 15 Acres for the Planned Expansion of Brigham Young University – Hawaii  
Lā'ieawai Ahupua'a, Ko'olaupua District, Island of O'ahu  
TMK: (1) 5-5-006:005 por. and 032 por.**

This letter provides the State Historic Preservation Division's (SHPD's) comments on the subject submittal. The applicant, Brigham Young University-Hawaii (BYU-H), requests to amend the State Land Use (SLU) District Boundary to transfer approximately 14.85 acres from the SLU Agricultural District into the SLU Urban District to accommodate planned expansion of the BYU-H campus. The proposed boundary amendment involves five non-contiguous areas located adjacent to the existing SLU Urban District within TMK: (1) 5-5-006:005 and 032. The SHPD received this submittal on July 27, 2018.

The BYU-H campus is located within a 210.8-acre area identified as TMK: (1) 5-5-006:005, 032, and 035. These lands are located within the SLU Urban and Agricultural Districts. The existing and developed campus facilities including academic buildings, university housing, student amenities, administration and support facilities, located within the SLU Urban District, totaling approximately 110.8 acres. The SLU Agricultural District, totaling approximately 100 acres, primarily contains open space, limited agricultural cultivation, a cultural preservation area (*Ni'oi Heiau*), a Hawaiian Studies area, an Ethnobotanical Garden and Biology Research area, the Lā'ie Trucking Company, LTD operation yard, agricultural roads, and various utilities.

The proposed 14.85-acre SLU Urban District expansion consists of five non-contiguous areas adjacent to the existing campus facilities, as shown on BYU-H on page 1 of the submittal, and a 0.03-acre (Petition Area 3) triangular area located on West Road Loop Extension. The proposed petition/expansion areas include:

Russell Tsuji and Raymond Young  
September 12, 2018  
Page 2

- Petition Area 1 (0.12-acre) future expansion area is located adjacent to Temple View Apartment Building (TVA) 25;
- Petition Area 2 (0.50-acre) future expansion area located adjacent to TVA 27;
- Petition Area 3 (0.03 acre) proposed transfer from SLU Urban to Agriculture area bounded by TVA 27 to the northwest, parking lot to southwest;
- Petition Area 4 (2.70-acres), possible expansion area, existing uses includes a parking lot, stormwater detention area, Electric Utilities Transformer and Telecommunications Building;
- Petition Area 5 (10.0-acres), future development of student dormitories; and
- Petition Area 6 (1.53-acres), existing parking lot serving the Polynesian Cultural Center and BYU-H, the proposed boundary amendment will bring the parking lot use into conformance with HRS §205.

On September 11, 2018, a meeting was held between Susan Lebo [SHPD, Archaeology Branch Chief]; Morgan Davis [Scientific Consultant Services, Inc.]; Franz Krainz [Department of Permitting and Planning (DPP), Planning Branch] and RM Towill Corporation consulting representatives to discuss the current project and Hawaii Revised Statutes 6E requirements.

Based on the information provided in the submittal and consultation meeting, SHPD has no objections Brigham Young University-Hawaii (BYU-H) request to amend the State Land Use (SLU) District Boundary to transfer approximately 14.85 acres from the SLU Agricultural District into the SLU Urban District to accommodate planned expansion of the BYU-H campus.

SHPD requests the opportunity to review future permits for proposed projects involving development and/or ground disturbing activities within the subject project area.

Please contact Dr. Susan A. Lebo, Archaeology Branch Chief, at [Susan.A.Lebo@hawaii.gov](mailto:Susan.A.Lebo@hawaii.gov) or at (808) 692-8019 for any questions regarding this letter.

Aloha,

*Alan Downer*

Alan S. Downer, PhD  
Administrator, State Historic Preservation Division  
Deputy, State Historic Preservation Officer

# Brigham Young University - Hawai'i

## State Land Use District Boundary Amendment



**City Council - Zoning & Housing Committee Presentation | February 28, 2019**

**2**

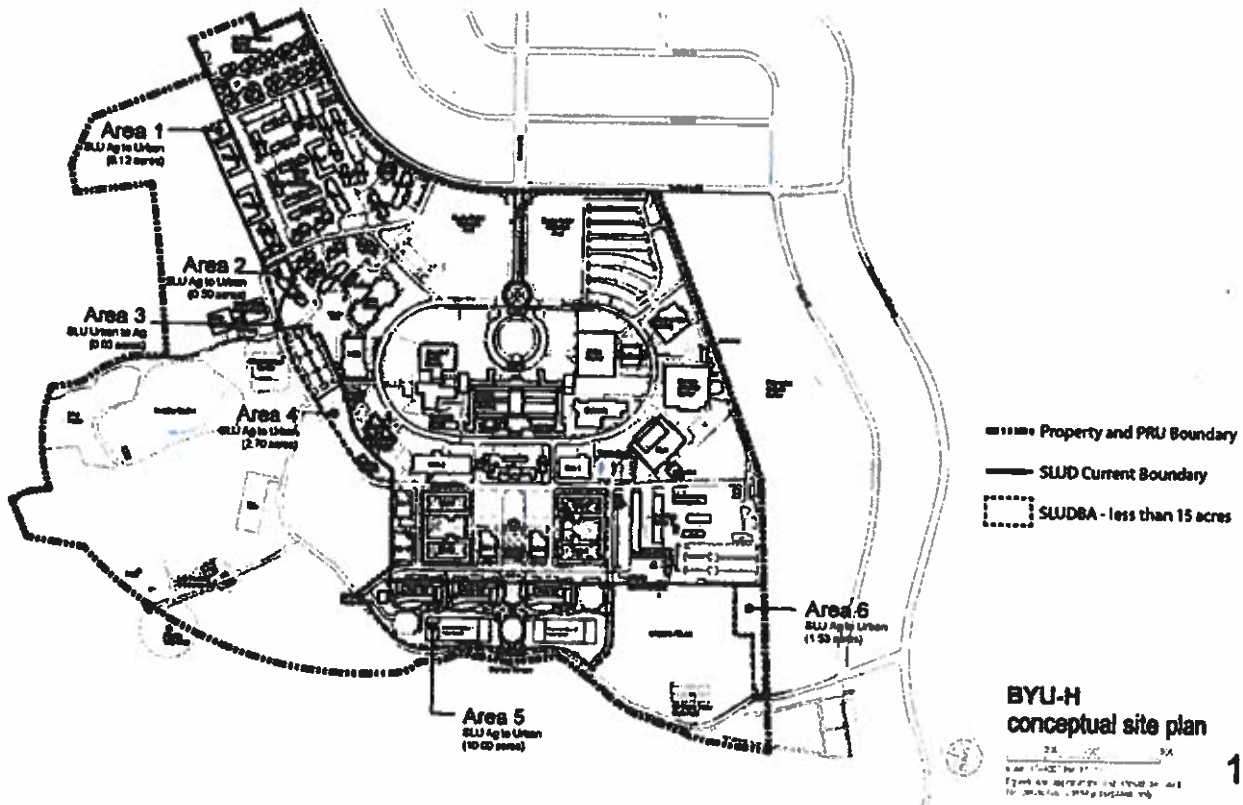
### BYU-H Expansion Project Purpose

- Replace obsolete structures, improve the open spaces, increase circulation and drainage detention.
- Increase educational opportunities to target area students (Hawai'i, Asia-Pacific Rim)
- Enhance student success rate by housing more students on campus.
- Improve level of sustainability.
- Renew housing stock on campus.



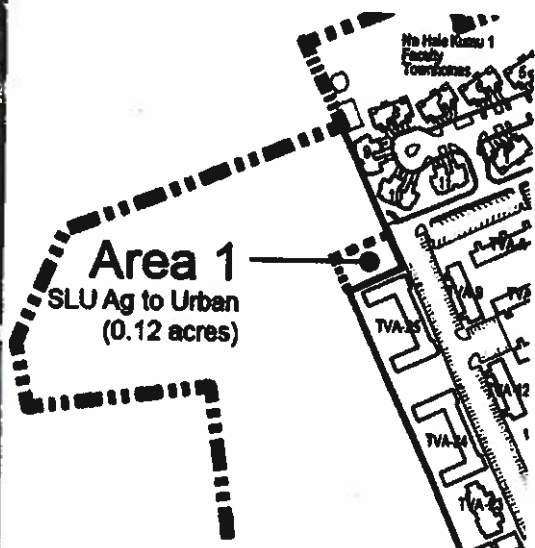
# BYU-H Expansion SLUD Boundary Amendment

3

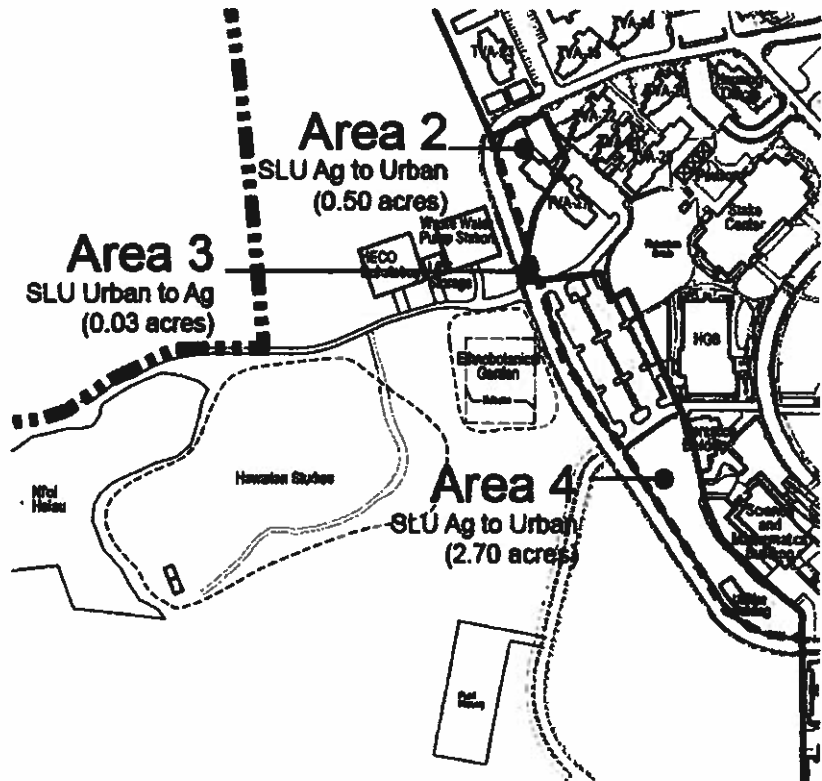
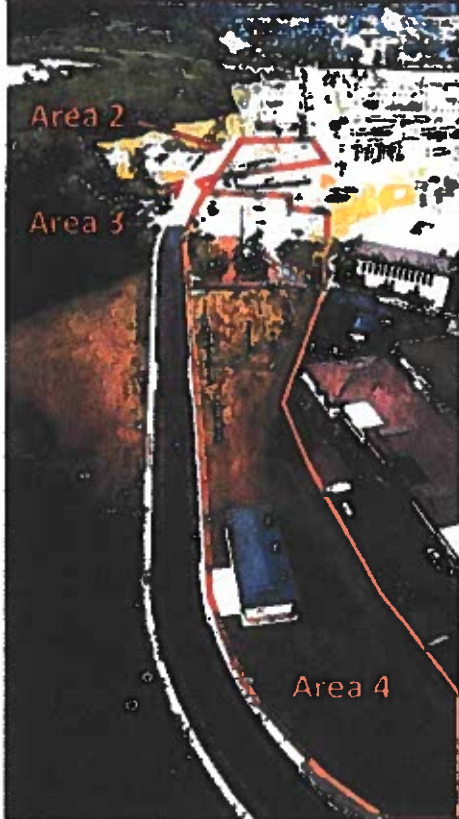


## BYU-H Expansion SLUD Boundary Amendment Petition Area 1

4



BYU-H Expansion  
SLUD Boundary Amendment  
Petition Areas 2, 3, and 4

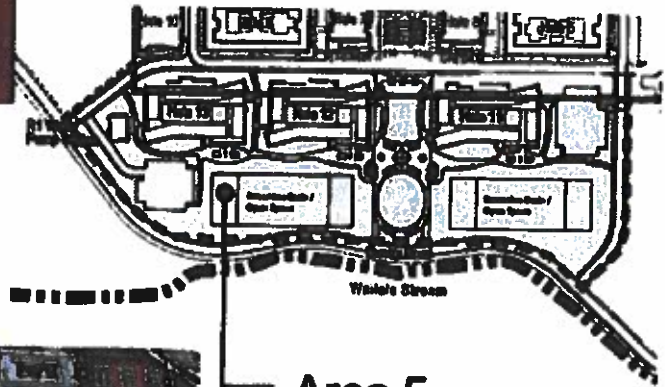


BYU-H Expansion  
SLUD Boundary Amendment  
Petition Areas 2, 3, and 4





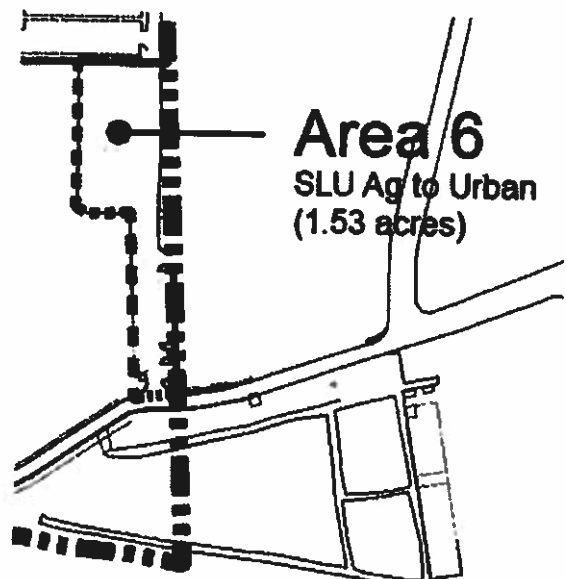
BYU-H Expansion  
SLUD Boundary Amendment  
Petition Area 5



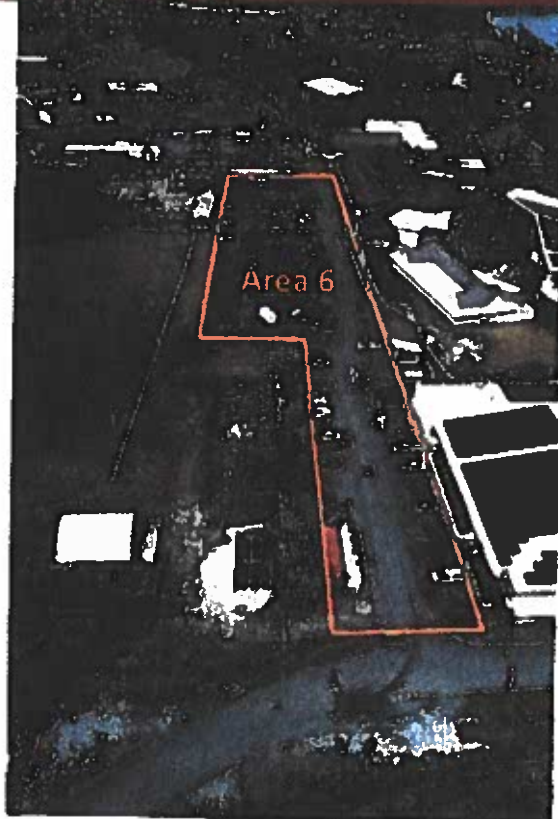
**Area 5**  
SLU Ag to Urban  
(10.00 acres)



BYU-H Expansion  
SLUD Boundary Amendment  
Petition Area 6

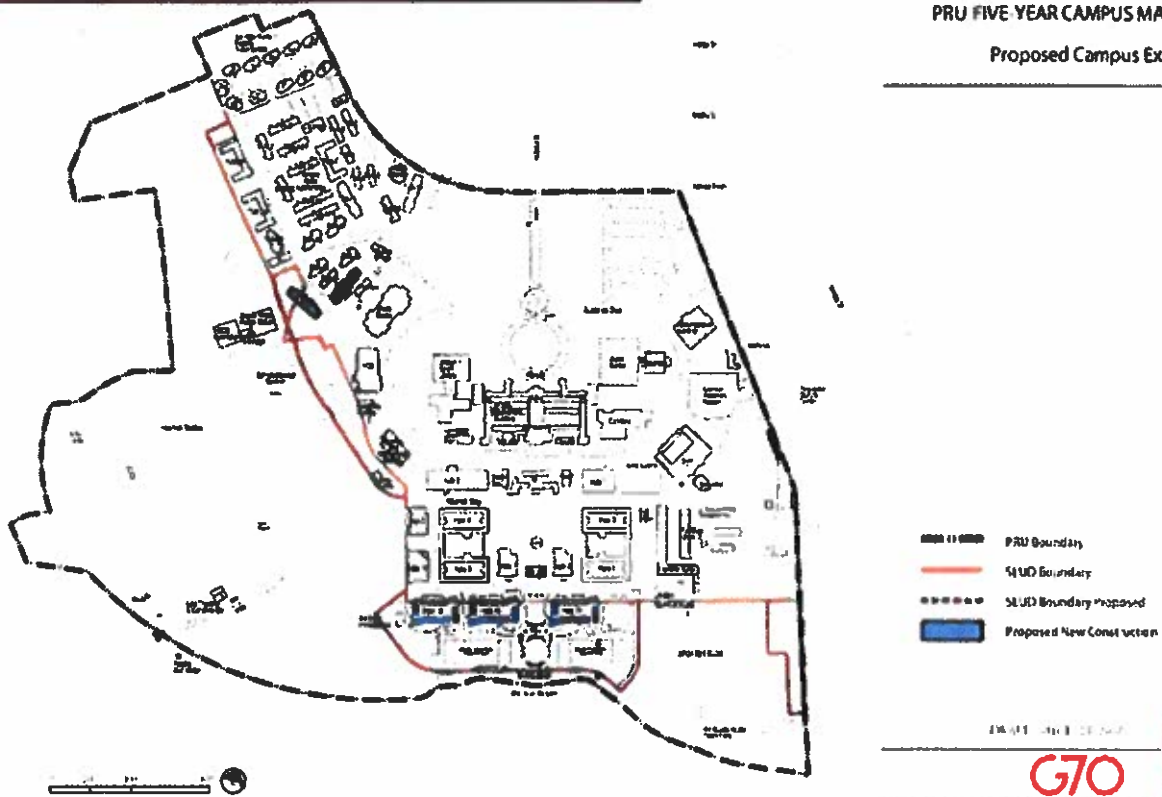


**Area 6**  
SLU Ag to Urban  
(1.53 acres)



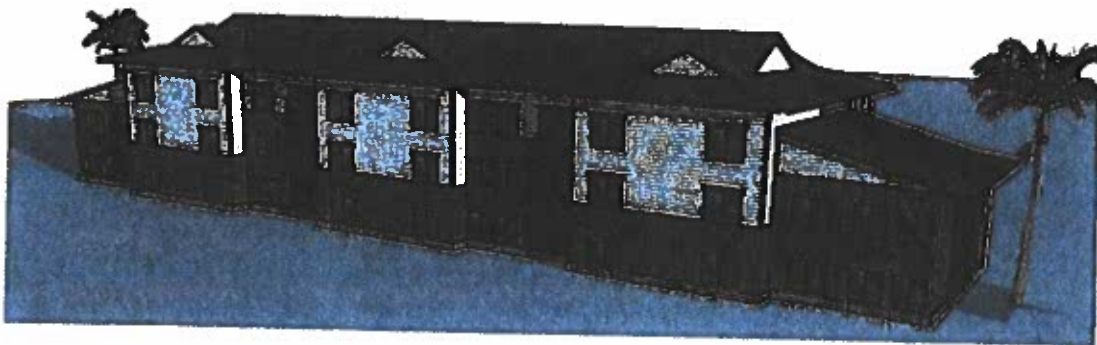
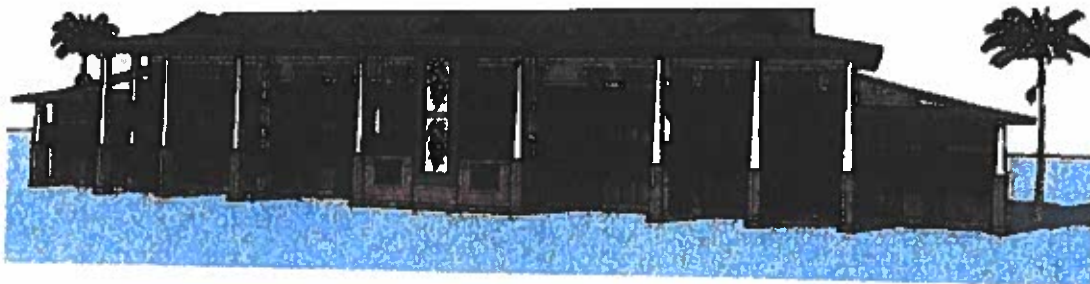
# BYU-H Expansion Project Areas

## PRU FIVE YEAR CAMPUS MASTER PLAN Proposed Campus Expansion Plan



# BYU-H Single Student Housing Conceptual Rendering





- Housing
  - Relieve overcrowded rental housing conditions.
  - On-campus housing is more conducive to academic success.
  - Gradual transition to allow rental housing market to adapt.
- Drainage
  - Increase in storm water retention on campus.
    - Smaller building footprints, vertical density, front field retention improvements.
  - Enhanced maintenance of campus drainage system.
  - Net zero increase in runoff from campus facilities.

BYU-H Expansion  
Potential Impacts and Mitigation Efforts

- Traffic
  - 14% of the student body owns vehicles
  - 60% of new students will be international students who will not own vehicles and 15% of new students will be Hawaii students
  - Off campus students with cars will be relocated to campus, reducing cars in the residential community
- Transportation program:
  - Roberts School Bus exchange of services
  - Shuttle vans
  - Enterprise rent a car by the hour

BYU-H Renovation and Expansion

Mahalo!



PLANNING COMMISSION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8007 • FAX: (808) 768-6743  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



ARTHUR D. CHALLACOMBE, Chair  
CORD D. ANDERSON, Vice Chair  
ARTHUR B. TOLENTINO  
STEVEN S. C. LIM  
KEN K. HAYASHIDA  
THERESIA C. McMURDO  
WILFRED A. CHANG, JR.  
GIFFORD K. F. CHANG

December 6, 2018

The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Councilmembers  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

**SUBJECT:** Request for State Land Use District Boundary Amendment for  
Brigham Young University – Hawaii Campus, Laie, Oahu  
Tax Map Keys: 5-5-006: Portions of 005 and 5-5-006: Portion of 032

The Planning Commission held a public hearing on October 31, 2018, on the above subject matter. Three people testified in support. There was no written testimonies received. The public hearing was closed on October 31, 2018.

The Planning Commission voted unanimously, 5:0, to accept the recommendations of the Acting Director of the Department of Planning and Permitting (DPP), subject to the following modification:

- At Section V. Recommendation, page 26, after "...Cultural Impact Assessment (CIA)," insert "or other cultural document acceptable to the DPP", including a Ka Paakai Analysis...

18DEC14 AM 9:27 CITY CLERK

The Honorable Ernest Y. Martin  
Chair and Presiding Officer  
and Councilmembers  
December 6, 2018  
Page 2

Attached is the report of the Acting Director of the DPP, the Planning Commission Findings of Fact pertaining to the State Land Use District Boundary Amendment, and the original copy of the draft Bill.

Should you have any questions, please contact me at 768-8007.

Sincerely,



Cord. D. Anderson, Vice Chair  
Planning Commission

Attachments

ACKNOWLEDGED:



Kirk Caldwell  
Mayor

ACKNOWLEDGED:



Kathy K. Bokugawa, Acting Director  
Department of Planning and Permitting



Roy K. Amemiya, Jr.  
Managing Director

KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

October 24, 2018

2018/SLU-1  
2018/GEN-8

**MEMORANDUM**

TO: Cord D. Anderson, Vice Chair  
and Members of the Planning Commission

FROM: Kathy K. Sokugawa, Acting Director  
Department of Planning and Permitting

SUBJECT: State Land Use District Boundary Amendment of 14.85 Acres  
from the State Agricultural District to the Urban District and  
State Land Use District Boundary Amendment of 0.03 Acres  
from the State Urban District to the Agricultural District for  
the Brigham Young University – Hawaii Campus, Laie, Oahu  
Tax Map Keys: 5-5-006: Portions of 005 and 5-5-006: Portion of 032

2018 OCT 24 PM 4:50  
DEPT OF PLANNING  
AND PERMITTING  
CITY & COUNTY OF HONOLULU

Transmitted for appropriate action is our report and recommendations for approval of a State Land Use District Boundary Amendment (SLUDBA) of 14.85 acres from the State Land Use (SLU) Agricultural District to the Urban Land Use District and a SLUDBA of 0.03 acres from the SLU Urban District to the Agricultural District proposed by Brigham Young University – Hawaii (BYU-H). While the SLUDBA involves two boundary amendment actions, it will be treated as one SLUDBA petition.

The proposed SLUDBA conforms to the policies and guidelines of the Hawaii State Plan and the General Plan of the City and County of Honolulu. It also conforms to both the currently adopted and proposed Koolau Loa Sustainable Communities Plan (KL SCP) and is within the established Rural Community Boundary of the KL SCP and Planned Review Use (PRU) boundary of the BYU-H campus. The proposal is to allow the expansion of student housing on campus.

Based on the conclusions in this report, the Department of Planning and Permitting (DPP) recommends approval of the SLUDBA with certain conditions, pursuant to Hawaii Revised Statutes (HRS), Section 205-3.5, namely the protection of access to and farming of adjacent agricultural lands, the filing of a Cultural Impact Assessment to satisfy the requirements of HRS Section 205-17, and the filing of an annual status report to the DPP.

It is anticipated that the SLUDBA will further the mission of BYU-H to improve the educational experience by increasing the percentage of enrolled students living on campus, as well as reducing traffic throughout the community. The expansion of student housing on campus is not anticipated to result in any significant impact on public facilities.

Cord D. Anderson, Vice Chair  
and Members of the Planning Commission  
October 24, 2018  
Page 2

The approval of these campus facilities and improvements will be addressed by a new PRU permit currently being processed by the DPP as an updated Five-Year Campus Master Plan.

Attachment

cc: R. M. Towill Corporation  
BYU-H

DEPARTMENT OF PLANNING AND PERMITTING  
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION )  
 )  
OF ) File Nos. 2018/SLU-1  
 ) 2018/GEN-8  
BRIGHAM YOUNG UNIVERSITY – HAWAII )  
 )  
FOR A )  
 )  
STATE LAND USE DISTRICT BOUNDARY )  
AMENDMENT OF 14.85 ACRES FROM )  
THE STATE AGRICULTURAL DISTRICT TO )  
THE URBAN DISTRICT AND STATE LAND )  
USE DISTRICT BOUNDARY AMENDMENT )  
OF 0.03 ACRES FROM THE STATE URBAN )  
DISTRICT TO THE AGRICULTURAL DISTRICT )

FINDINGS OF FACT, ANALYSIS,  
CONCLUSIONS OF LAW, AND RECOMMENDATION

I. APPLICATION

A. Basic Information.

APPLICANT/LANDOWNER : Brigham Young University – Hawaii (BYU-H)  
AGENT : R. M. Towill Corporation  
LOCATION : BYU-H campus at 55-220 Kulanui Street, Laie, Oahu. Six non-contiguous areas comprise the Petition Area. They are located along the western and southern edges of the existing campus between Naniloa Loop and Quarry Road, west of the Polynesian Cultural Center (PCC) in Laie, Hawaii (**Attachment 1**).  
TAX MAP KEYS (TMK) : 5-5-006: portions of 005 and 5-5-006 portion of 032  
LAND AREA : 14.85 acres in 5 areas of TMK: 5-5-006: 005 are proposed to be reclassified to the State Land Use (SLU) Urban District and a 0.03 acre area of TMK: 5-5-006: 032 is proposed to be reclassified to the SLU Agricultural District (**Attachment 1**).

- STATE LAND USE DISTRICTS :** 14.85 acres in the SLU Agricultural District and 0.03 acres in the SLU Urban District. The entire Petition Area is within a Planned Review Use boundary (**Attachment 2**).
- EXISTING ZONING :** The Petition Area is entirely within the AG-1 Restricted Agricultural District (**Attachment 3**).
- SHORELINE SETBACK AREA/ SPECIAL MANAGEMENT AREA :** The Petition Area is outside the Special Management Area and the Shoreline Setback Area.
- DEVELOPMENT PLAN AREA :** Koolau Loa Sustainable Communities Plan (KL SCP). The Petition Area is within the KL SCP Rural Community Boundary (RCB).
- KOOLAU LOA PUBLIC INFRASTRUCTURE MAP (KL PIM) :** West of the Petition Area is KL PIM No. 2 for a potable well and south of the site is KL PIM No. 3 for another potable well (**Attachment 4**).
- FLOOD HAZARD AREAS :** Approximately 2.86 acres are within Flood Zone X; approximately 2.56 acres within Flood Zone AE; approximately 9.23 acres are in Flood Zone A; and 0.20 acres are in Flood Zone AH (**Attachment 5**).
- EXISTING USES :** Paved and gravel parking lots and grassy open space areas that are integrated with the campus drainage system as detention areas. The only structure in the Petition Area is an approximately 800-square foot Electric Utilities Transformer and Telecommunications Building (EUTBB).
- SURROUNDING LAND USES :** To the north and northeast lies the existing campus, The Church of Latter Day Saints Laie Hawaii Temple, and the residential community of Laie. To the west, is open space, limited agricultural cultivation, a cultural preservation area (Nioi Heiau), Hawaiian Studies area, the Ethno-botanical Garden and Biology Research Area (EGBRA), Laie Trucking Company Limited (LTCL), Laie Wastewater Reclamation Facility (LWRF), agricultural roads, various utility installations including a wastewater pump station, a Liquid Petroleum Gas (LPG) storage facility, developed potable water wells, and the mountainous State Conservation areas at the edge of the Koolau Mountain Range. To the south, lie the vacant lands for the campus expansion, Waialele Stream, campus athletic fields, and to the southeast an existing R1 wastewater leach field (infiltration field) that is used to dispose treated effluent from the LWRF. The land south of Waialele Stream is comprised of agricultural



land. To the east, the Polynesian Cultural Center (PCC) is located between the east border of the campus and Kamehameha Highway. Makai of the highway are single-family residential uses.

- B. **Proposal.** The Applicant, BYU-H proposes to amend the SLU District boundaries by: (1) reclassifying 14.85 acres of land from the SLU Agricultural District to the SLU Urban District, and (2) reclassifying 0.03 acres of land from the SLU Urban District to the SLU Agricultural District. While this constitutes two separate boundary amendment actions, this SLUDBA application is processed as a singular petition. The proposed SLUDBA involves six non-contiguous areas (Petition Area) located adjacent to existing campus facilities (Diagram 1 – BYU-H Conceptual Site Plan).

The planned expansion and ongoing campus renovation projects are designed to modernize and grow the University's offerings with the goal of increasing the percentage of single and married-students living on campus from 75 to 95 percent thereby improving the quality of the students' learning and living environment. Student enrollment (full time and part time) is planned to increase from 2,900 (2,700 full-time equivalent [FTE]) to 3,500 (3,200 FTE) over the next five years. The six, non-contiguous areas comprising the Petition Area, constitute a portion of the University's next phase of growth.

Pursuant to Hawaii Revised Statutes (HRS) Section 205-4.5, the proposed student housing and other campus facilities, are not allowed uses within the SLU Agricultural District. Therefore, a SLUDBA is required to expand the SLU Urban District boundary to include these campus expansion areas. In addition to accommodating the planned campus expansion, the proposed SLUDBA application also brings existing land uses (namely, student and the PCC employee parking lot) into conformance with HRS Chapter 205.

- C. **Background.** The BYU-H campus is located within a 210.8-acre area identified by TMK parcels: (1)5-5-006: 005, 032 and 035. BYU-H lands are located within the SLU Urban and Agricultural Districts. The existing and developed campus facilities, including academic buildings, university housing, student amenities, administration and support facilities, and the LWRF are located within the SLU Urban District, totaling approximately 110.8 acres. The SLU Agricultural District portion of the campus, totaling approximately 100 acres, primarily contains undeveloped open space, limited agricultural cultivation, a cultural preservation area (Nioi Heiau), Hawaiian Studies area, the EGBRA, the LTCL operations yard, agricultural roads, and various utilities.

On May 7, 1997, BYU-H obtained PRU Permit No. 94/PRU-4 by City Council Resolution No. 96-321, CD1, which served as a Five-Year Campus Master Plan and established the current PRU campus boundary. The Master Plan recognized 33 existing structures and proposed the construction of seven new buildings. However, since 1996, 13 separate minor modifications to the original PRU have been granted to permit a number of other on-campus construction projects consisting of chapel expansions, new classrooms, student dormitories, recreational facilities, parking lots, and utility facilities. The 14.85 acres of the Petition Area within the SLU Agricultural District are within the area covered by the existing PRU (Attachment 2).

- Property and PRU Boundary
- SLUD Current Boundary
- SLUDBA - less than 15 acres

conceptual site plan

scale 1"=400' for 11x17  
Figures are approximate and should be used  
for conceptual planning purposes only

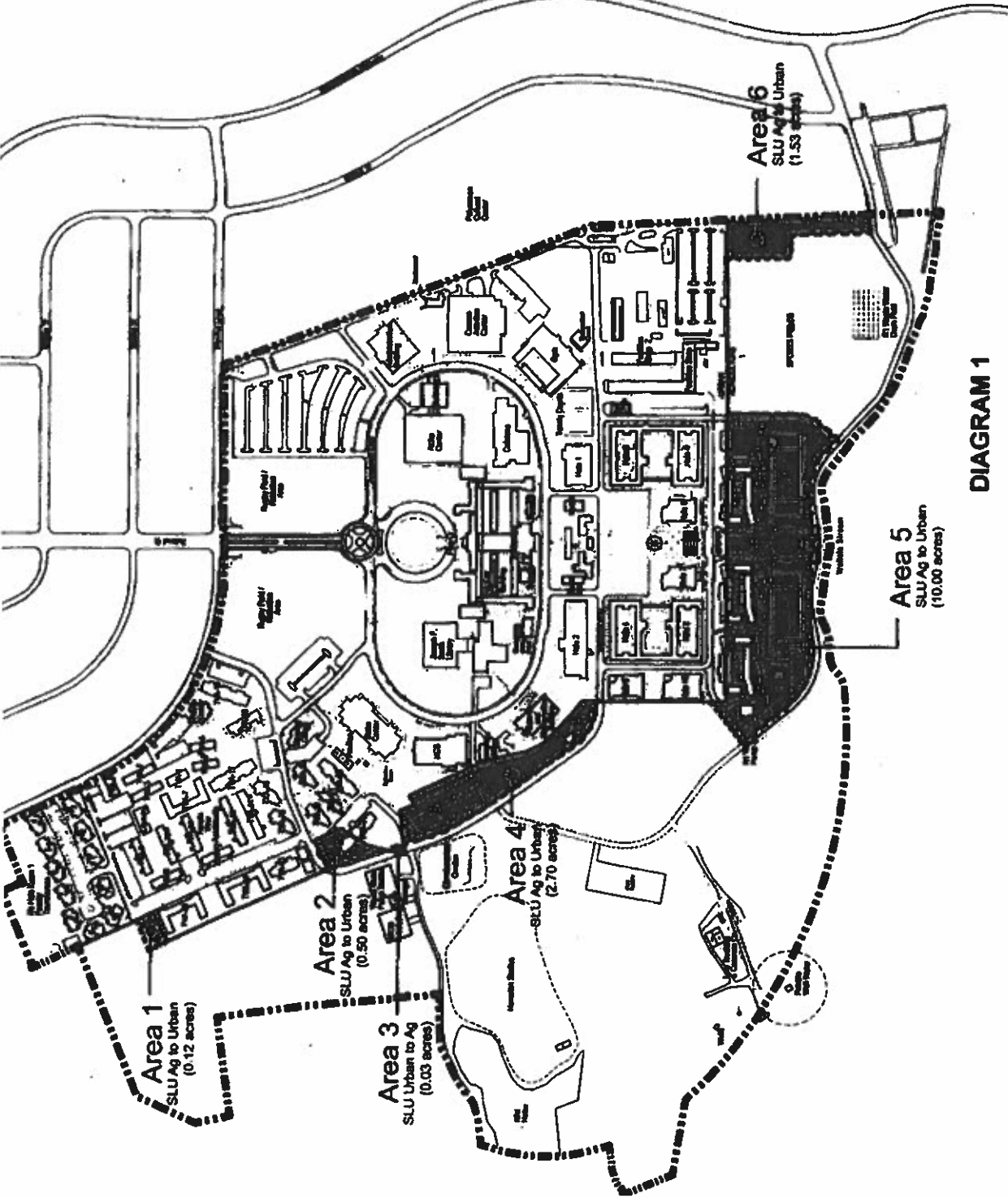





DIAGRAM 1

Scale 1"=500' for 12.7



 Property and PRU Boundary  
 SLUD Current Boundary  
 SLUDBA - less than 15 acres



BYU-H is concurrently submitting a separate PRU application for a new Five-Year Campus Master Plan to reflect the previous PRU Minor Modifications and to indicate future planned projects to modernize and expand campus facilities for the planned growth in total student enrollment. The SLUDBA will allow these planned projects to move forward.

D. Authority for a SLUDBA. In accordance with Sections 205-3.1(c) and 205-4 HRS, the County is authorized to process and approve a SLUDBA when 15 acres or less (except lands in the SLU Conservation District or designated as Important Agricultural Lands (IAL)).

E. Description of the Proposed Project. The planned campus expansion includes:

- Three new, single-student dormitories (Hale 11, 12, and 13) each with 312 beds.
- Two new, married-student Temple View Apartment (TVA) buildings 26 and 27 adding 56 more units.

Only the proposed TVA building 26 and approximately half of the proposed TVA building 27 will be in the existing SLU Urban District. If the SLU district boundaries are not amended, the other half of TVA building 27 (Area 2) and the other new buildings proposed in the Petition Area (Area 5) would be in the SLU Agricultural District (Diagram 1 – BYU-H Conceptual Site Plan) where such uses are not permitted.

F. Phasing and Approximate Costs. Implementation of the planned student housing expansion will commence in three stages upon receipt of necessary permits and available funding (estimated cost \$124 million for the 5 buildings and associated infrastructure). Each stage is summarized below.

- 2020-2022: Construct Hale 11 and TVA 26: (Estimated Cost - \$47 million)
- 2021-2023: Construct Hale 12 and TVA 27: (Estimated Cost - \$42 million)
- 2022-2024: Construct Hale 13: (Estimated Cost - \$35 million)

## II. FINDINGS OF FACT

On the basis of the evidence presented, the Director has found:

A. Description of Site/Surrounding Land Uses.

1. Location and Current Use. The Petition Area, comprised of six non-contiguous areas, spreads along the western and southern edges of the existing BYU-H campus adjacent to married-student housing, classrooms, student dormitories, and the campus facilities shop. The Petition Area consists mostly of paved parking lots, grassy areas, and vacant open space. The only building in the Petition Area is the EUTTB, approximately 800 square feet in size. Tables 1 and 2 list the existing uses within each of the six non-contiguous areas.

**Table 1: Current Land Use of Proposed SLU Urban District Expansion Areas**

Location	Area (acres)	Description
North Area (Area 1)	0.12	Grassed open space north and adjacent to married student TVA building 25.
Northwest Area (Area 2)	0.50	Existing grassed open space area; 20 stalls of an existing, 34-stall paved parking lot for the proposed TVA building 27.
West Area (Area 4)	2.70	Existing 112-stall gravel parking lot, grassed detention area, and EUTBB (existing).
South Area (Area 5)	10.00	Inactive agricultural land, vacant open space
Southeast Area (Area 6)	1.53	Existing 127-stall paved PCC parking lot.
<b>Total</b>	<b>14.85</b>	

**Table 2: Current Land Use of Proposed SLU Agricultural District Expansion Area**

Location	Area (acres)	Description
Between Northwest and West Areas (Area 3)	0.03	Asphalt pavement surface and Mikioneli Way right-of-way (formerly called the West Road Loop Extension).*
<b>Total</b>	<b>0.03</b>	* - The inclusion of the triangular 0.03 acre area in this SLUDBA petition to reclassify it from SLU Urban to SLU Agricultural is to maintain a consistent, straight SLU Boundary between the two districts.

2. **Topography.** The BYU-H campus, including the Petition Area, is located on the low-lying coastal plain between the steep slopes of the Koolau Mountain Range and the Pacific Ocean. In general, the slopes on the BYU-H campus, including the Petition Area, are relatively flat, between 0 percent to 2 percent grade. Typical elevations within these areas range from 6 to 9 feet in the north grassed area (Area 1), 7 to 9 feet in the northwest area parking lot (Area 2), 9 to 15 feet in the west area parking lot (Area 4), and 12 to 15 feet in the southeast area parking lot (Area 6). The BYU-H campus topography is illustrated on Attachment 6.
3. **Soils.** The project is located on the eastern coastal plains makai of the Koolau Mountain Range. Soils in the Petition Area are generally soft to medium stiff, silty clay alluvium with some coral outcroppings. According to the U.S. Department of Agriculture's 1972 Soil Survey, the soils within the Petition Area and vicinity are classified as follows:
  - Haleiwa silty clay (HeA): Consists of well-drained soils on fans and in drainage ways along the coastal plains. They developed in alluvium derived from basic igneous material. Elevations range from sea level to

However, unlike in the past, where the processing of past SLUDBAs and zone change were done concurrently, the processing of this PRU application lags slightly behind the SLUDBA application timeline.

Other needed permits and approvals include, but may not be limited to, grading and grubbing permits, building permits, and permits to connect to potable water, storm/drainage, and wastewater treatment facilities.

- C. **Public Agency Notification/Comments.** On July 19, 2018, the following public agencies were requested to evaluate the impact of the proposal on their facilities and services and notified of the SLUDBA petition. Substantive comments received will be addressed in Section III of this report. All written comments are included in their entirety in **Attachment 8.**

Any comments received after the signing of this report will be transmitted separately to the Planning Commission or City Council for their consideration.

1. **City Agencies:**

Board of Water Supply (BWS)  
Department of Budget and Fiscal Services (BFS)  
Department of the Corporation Counsel (COR)  
Department of Customer Services (CSD)  
Department of Design and Construction (DDC)  
Department of Emergency Management (DEM)  
Department of Environmental Services (ENV)  
Department of Facility Maintenance (DFM)  
Department of Parks and Recreation (DPR)  
Department of Transportation Services (DTS)  
Honolulu Authority for Rapid Transportation (HART)  
Honolulu City Council (CCL)  
Honolulu Emergency Services Department (HES)  
Honolulu Fire Department (HFD)  
Honolulu Managing Director's Office (MD)  
Honolulu Mayor's Office (MAY)  
Honolulu Neighborhood Commission (NB)  
Honolulu Police Department (HPD)  
Municipal Reference and Records Center (MRRC)  
Office of the City Clerk (CLK)  
Office of Climate Change, Sustainability, and Resiliency (OCCSR)  
Office of Council Services (CSV)

2. **State Agencies:**

Department of Agriculture (DOA)  
Department of Health (DOH)  
Department of Business, Economic Development and Tourism (DBEDT)  
Office of Planning (OP)  
Land Use Commission (LUC)  
Department of Land and Natural Resources (DLNR)  
State Historic Preservation Division (SHPD)  
Department of Education (DOE)  
Oahu Metropolitan Planning Organization (OMPO)  
Department of Transportation (DOT)



3. Federal Agencies:  
U. S. Fish and Wildlife Service (USFWS)  
U. S. Coast Guard (USCG)

- D. Community and Adjoining Property Owners' Notification/Comments. On November 2, 2017, the Applicant's representative, R. M. Towill, Inc., made a presentation regarding a preliminary version of the proposed project to the Laie Community Association (LCA), followed by a similar presentation on April 12, 2018 to the Koolau Loa Neighborhood Board No. 28 (NB28). Following questions, comments, and concerns about the number of students who are Hawaii residents, the NB 28 and community members suggested the school attempt to increase local enrollment. No official action to support or object to the proposal was taken. However, a representative of the LCA attending the meeting informed the NB28 that the LCA supports the BYU-H expansion project.

On July 19, 2018, the DPP sent copies of the SLUDBA application to the NB28, the HECO, the Office of Hawaiian Affairs, the Windward Satellite City Hall, and the Neighborhood Commission Office. Notices about the proposed SLUDBAs went out to media sources, area elected officials, surrounding neighborhood boards, island-wide organizations, and other stakeholders.

To date, the DPP has not received any responses from community organizations regarding the proposed SLUDBA. However, staff review of the August 8, 2018 minutes of the Kahaluu Neighborhood Board No. 29 (NB29) found that NB29 did discuss the proposed SLUDBA application. According to these meeting minutes, discussion followed but a vote to support the BYU-H expansion failed (3-Aye, 4-Nay, 2-abstain). Any comments received after the signing of this report will be transmitted separately to the Planning Commission or City Council for their consideration.

### III. ANALYSIS

#### A. Agency Comments.

1. The HPD concurs with the evaluation that the planned expansion of the campus will result in a reduction of motor vehicle traffic due to the expected increase in on-campus residency. However, they note that there could be a short-term impact to traffic during the construction phase of the project, therefore, they recommend that the developer implement traffic controls and management (e.g., signs, cones, barricades, flag persons, special duty officers, etc.) for construction vehicles to and from the worksites. The HPD has concerns involving the security of the area when the project is completed and recommends that they be involved in any future planning to reassess the project's impact on police operations.

DPP Comments. The DPP agrees with HPD that the Applicant submit a traffic management plan for the construction phase of the project and the project's impact to police operations be reviewed by the HPD. The specific details and timeline for coordination with the Applicant and HPD will be addressed during the PRU review process.

2. The HFD commented that any new development must comply with HFD requirements, such as access road standards, adequate water supply and water supply and submission of civil drawings for its review and approval.

DPP Comments. HFD requirements are met as part of the standard development approval process. These requirements will be addressed prior to the approval of the development's construction plans. Therefore, a condition of approval regarding fire protection is not recommended.

3. The DLNR Engineering Division commented that the rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high risk areas). The owner of the property and/or their representative is responsible to research the Flood Hazard Zone designation for the project.

DPP Comments. Portions of the campus including most of Area 5 are in Federal Emergency Management Agency (FEMA) Flood Zone A (Attachment 5). According to the FEMA flood hazard zone definition, Zone A represents shallow flooding but no base flood elevations (BFEs) have been determined. The SLUDBA petition does include a flood study, prepared by R. M. Towill Corporation, to determine the BFEs for the southern portion of campus from Waialele Stream to the Academic Circle. The Applicant did include the Flood Hazard Zone designations for the Project Area and will be required to satisfy both existing City drainage regulations, the requirements of Revised Ordinances of Honolulu (ROH) Chapter 21A, and the rules and regulations of the NFIP. The required improvements to meet these requirements will be addressed during the PRU approval process.

4. The OP, in their response to the Request For Comments on the SLUDBA, commented that the proposed SLUDBA application did not address:  
a) conformance with the Hawaii State Plan and consideration of the decision-making criteria in HRS Sections 205-16 and 205-17; and b) preservation or maintenance of important natural systems or habitats, more specifically, the impacts on flora and fauna within the Petition Area. The OP also points out that the SLUDBA application did not address the provisions of HRS Section 205-17(3)(B) regarding impacts on the valued cultural, historical, or natural resources in the Petition Area. Following the Hawaii Supreme Court ruling in Ka Paakai O Ka Aina v. Land Use Commission, the OP suggests a 'Ka Paakai Analysis' be done on the Petition Area. A Ka Paakai Analysis would involve making specific findings that address: a) the identity and scope of valued cultural, historical, or natural resources in the Petition Area including the extent to which traditional and customary native Hawaiian rights are exercised in the Petition Area; b) the extent to which those resources, including traditional and customary native Hawaiian right will be affected or impaired by the proposed action; and c) the feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist. Another OP comment adds that the SLUDBA application did not discuss how the Petition Area conforms to the standards for determining SLU Urban District boundaries.

DPP Comments. The review of applicable state and county plans in the Analysis section of this report confirms the proposed SLUDBA's conformance with these

plans. The proposed SLUDBA does meet the standards for determining SLU Urban District boundaries under Hawaii Administrative Rules (HAR), Section 15-15-18 because the Petition Area is contiguous to existing institutional uses, it is close to basic urban services, and the Petition Area is in an area already shown for future urban use on the General Plan of the City and County of Honolulu and the KL SCP.

The 1992 Final Environmental Impact Statement (FEIS) for the Laie Master Plan noted that there were four endangered species of native water birds in the study area of the Master Plan. The endangered species were the Black-necked Stilt (*Himantopus mexicanus knudseni*), the Hawaiian Duck or Koloa (*Anas wyvilliana*), American Coot (*Fulica americana alai*), and the Common Moorhen (*Gallinula chloropus sandvicensis*). At the time, the FEIS found that the proposed developments were not expected to have a significant adverse effect on the area's available or critical habitat for either the endangered or common bird species in the area. The FEIS added that disturbance to on-site vegetation, and the subsequent development and replanting, is expected to have no significant impact on available habitat for endemic birds. None of the mammals occurring in the project area covered by the FEIS were found to be an endangered species, and no detrimental effects resulting from the project were expected.

While an assessment of impacts to flora and fauna were not a part of this SLUDBA application, a determination in the forthcoming PRU application concludes that there are no known threatened or endangered species or their habitat within or around the project site. The flora and fauna in the Petition Area are found to be typical of urbanized areas and consist of common introduced species. This finding, after 36 more years of additional development and human activity in the area, seems to confirm the statements reached in the 1992 FEIS. In addition, as wetlands are known as critical natural systems or habitats for water birds, reptiles, insects and other types of flora and fauna, none are within the Petition Area. However, the DPP does recommend a more thorough and updated analysis of the natural systems and habitats and whether the proposed development under the forthcoming PRU permit will have any significant impact on any flora and fauna in the area.

State law provides an affirmative obligation to preserve and protect the reasonable exercise of traditional and customary native Hawaiian rights of valued cultural, historical, and natural resources. However, extensive ground disturbance and modification from agricultural activities and development over many years is likely to have destroyed or degraded these resources within the Petition Area. The only known traditional cultural property within the BYU-H campus property and the vicinity of the Petition Area is Nioi Heiau, which is located approximately 1,000 feet to the west (mauka) of Area 4. The Nioi Heiau is accessible through the campus and the BYU-H Hawaiian Studies Program does oversee the area. In 2010, the university, with the guidance of the Laie Kupuna Council, developed and submitted to the DLNHR a long-term preservation plan for the Nioi Heiau. The plan addresses access and maintenance of the heiau site (Attachment 9).

Appendix F.8 of the SLUDBA application also includes the findings of a 2017 Draft Archeological Literature Review and Field Inspection (LRFI) conducted by

Cultural Surveys Hawaii, Inc., for the Petition Area and vicinity. The findings of the draft LRFI concluded the SLUDBA will likely have no effect on historic properties and recommended consultation with the SHPD to determine what, if any, historic preservation requirements are required. A 2012 Archaeological Inventory Survey (AIS) report prepared by Scientific Consultant Services Inc., (SCS), identified several archeological and historic sites within the Petition Area, however, the archeological materials were collected and curated by SCS and are no longer at the site. Based on these findings and consultation, the SHPD did not have any objections to this SLUDBA but requested the opportunity to review future permits for any development within the Petition Area (see SHPD letter dated September 12, 2018 in Attachment 8).

While the archeological and historic inventories in the SLUDBA application and the Long-Term Preservation Plan for the Nioi Heiau provide a good summation of these resources in the Petition Area, the DPP believes the SLUDBA application does not completely address the requirements of Chapter 205-17(3)(B) within the framework established by the Hawaii Supreme Court ruling in *Ka Paakai O Ka Aina v Land Use Commission, State of Hawaii*. In that ruling, the Hawaii Supreme Court provided governmental agencies with an analytical framework, or Ka Paakai Analysis, to ensure the protection and preservation of traditional and customary native Hawaiian rights while reasonably accommodating competing private interests. The Ka Paakai Analysis can be done within the scope of a cultural impact assessment (CIA). While reclassification of SLU boundaries does not, in itself, impair access to traditional or customary native Hawaiian practices, a complete CIA, ideally with a Ka Paakai analysis, is recommended in order to ensure complete compliance with Chapter 205-17 (3)(B).

5. The DLNR, Division of Forestry and Wildlife (DOFAW), recommended that BYU-H's proposed campus expansion: a) avoid importing soil or other plant material to Oahu from off-island; b) remove non-native vegetation and re-vegetate with native plant species after construction; and c) maximize tree canopy cover to the extent possible. The DOFAW did add that the possible impacts of artificial lighting can adversely affect seabirds who fly at night. They recommended if night lighting is required, that any lights used, be fully shielded to minimize impacts.

DPP Comments. All the recommendations made by the DOFAW are related to the impacts associated with construction of the proposed campus facilities or conditions associated with the development once they are complete. Therefore, the DPP recommends a landscape master plan and a lighting plan be addressed during the PRU approval process.

6. The DOT anticipated that the proposed campus expansion would not have a significant impact on State highway facilities but commented that if there were unexpected effects attributable to the expansion of the BYU-H campus, the applicant shall mitigate those impacts to the satisfaction of the Highways Division at no cost to the State.

DPP Comments. A Traffic Impact Analysis Report has been submitted as part of the PRU application. It addresses the possible impacts the proposed campus expansion will have on State highway or County road facilities. Traffic and

transportation improvements to support this expansion will be addressed during the PRU approval process.

7. The SHPD of the State DLNR, in their September 12, 2018 letter, had no objections to the SLUDBA petition but requested the opportunity to review future permits for proposed projects involving development and/or ground disturbing activities.

DPP Comments. It is standard practice that when any archeological or historic resources are found during construction, work ceases and the contractor is required to comply with all applicable requirements of Chapter 6E and administrative rules of the DLNR. However, to ensure that SHPD is given the opportunity to review projects in the Petition Area and to ensure compliance with HRS, Chapter 205-17, a condition requiring identification, as well as protecting and preserving valued cultural, historic, and natural resources (including native Hawaiian rights and practices), is recommended.

**B. Compliance with State Land Use Legislation.**

1. Chapter 205, HRS, State Land Use Commission. The proposed expansion areas comprising 14.85 acres is within the SLU Agricultural District. Thus, a SLUDBA of less than 15 acres is needed for the proposed campus expansion project. Pursuant to HRS Section 205-4.5, the proposed student housing, existing parking lots, married housing buildings, the Heber J. Grant Building, and the area encompassing the EUTTB and future expansion site for the Ceramics Building are not allowed uses within the SLU Agricultural District. Therefore, a boundary amendment is required to expand the SLU Urban District boundary to include the Petition Area (except the 0.03 acre area) in order to be compliant with Chapter 205.

In accordance with Section 205-2(a)(1), HRS, the purpose and intent of establishing the boundaries of the Urban District is for lands that are now in urban use and provide for foreseeable urban growth. The expansion of student housing and the possibility of future facilities on-campus are consistent with the purpose and intent of the SLU Urban District. Pursuit of a Special Use Permit (SUP), on the other hand, would be insufficient to accommodate this expansion since BYU-H plans to grow within its PRU boundary for the foreseeable future. A SUP is more appropriate for single, isolated, and often-limited-term uses that are unusual but need to be located in an agricultural district without the need to reclassifying it as urban.

In accordance with Section 205-2(a)(3), HRS, the purpose and intent of the SLU Agricultural District is to provide the greatest possible protection to those lands with a high capacity for intensive cultivation. However, except for Area 5, all other areas within the Petition Area have undergone some form of grading or compaction related to development of campus buildings, facilities, and related hardscape, roads, parking lots, and site grading to facilitate proper drainage. While approximately 10.54 acres of the Petition Area (most of Area 5 and small portions of the other Areas combined) is designated as ALISH Prime Agricultural Land and rated by LSB as having good to fair productivity, the Petition Area as well as the entire PRU (Attachment 2), is within the KL SCP RCB. Such designation delineates land planned for urban and institutional development. In

many instances, ancillary and supportive urban uses, i.e., parking lots, utility facilities, and temporary storage lots that serve the campus have already been built on these rated lands within the SLU Agricultural District. Therefore, these soils, despite their productivity rating, are unlikely to be used for agriculture again.

Nevertheless, removal of Area 5 impacts about five acres of agricultural land that was recently in papaya production. The Petitioner should be required to make available five acres of land for crop production as a condition of approval. As the Petitioner is required to apply for a new PRU, the DPP will consider the replacement of the five acre loss to campus use for future crop production in its review of the PRU, therefore, a condition to require replacement of lands lost to development is not recommended at this time.

Furthermore, HRS, Section 205-3.5, stipulates the inclusion of mandatory conditions when reclassifying land contiguous to an agricultural district. It states:

- (a) Any decision approving a petition for a boundary amendment pursuant to Chapter 205 where lands in the petition area are contiguous or adjacent to lands in the agricultural district, must include the following conditions by the decision granting approval:
  - (1) A prohibition on any action that would interfere with or restrain farming operations; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the agricultural district; and
  - (2) Notification to all prospective developers or purchasers of land or interest in land in the petition area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the agricultural district are protected under Chapter 165, the Hawaii right to farm act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.
- (b) For purposes of this section, "farming operation" shall have the same meaning as provided in HRS, Section 165-2.

These statutory conditions are included in the Recommendations section of this report.

As discussed throughout this report, in accordance with HRS, Sections 205-16 and 205-17, this SLUDBA is found to be in conformance with the Hawaii State Plan, the General Plan of the City and County of Honolulu and the KL SCP and meets the standards of HAR, Section 15-15-18 for determining SLU Urban District boundaries. In accordance with HRS, Section 205-17(3), the proposed reclassification with this SLUDBA is not expected to impact these areas of state concern; a) important natural systems or habitats, b) valued cultural, historical, or natural resources, c) natural resources relevant to Hawaii's economy, including agricultural resources, and d) commitment of state funds or resources. However, the SLUDBA did not directly or completely address impacts to flora and fauna

and protection and preservation of traditional and customary native Hawaiian rights and practices throughout the Petition Area. The DPP is recommending the review and acceptance of supplemental information to ensure conformance of these two items with HRS, Section 205-17(3) as a condition of approval for this SLUDBA. The proposed SLUDBA does provide employment and housing opportunities for lower income groups with the proposed campus expansion. Since the proposed reclassification of lands to the SLU Urban District does not include Important Agricultural Lands (IAL), compliance with HRS, Section 205-17(4) is not applicable.

The proposed SLUDBA, with the proposed recommendations, addresses HRS, Section 205-17, where applicable.

2. Chapter 205A, HRS, Coastal Zone Management Zone (CZM). Chapter 205A establishes the CZM program for all lands of the State and the area extending seaward of the shoreline to the seaward limits of the State's jurisdiction.

The SLUDBA proposal is consistent with the CZM objectives and policies as follows:

(b) Objectives.

(2) Historic Resources:

- (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

Policy (c)(2)(A): Identify and analyze significant archaeological resources.

In 2012, the AIS report for BYU-H identified one surface site of historic significance, an archaeological site consisting of traditional-type lithic scatter including 31 basalt and volcanic glass artifacts. The LRFI for this SLUDBA application, identified the nearest property on the State Inventory of Historic Places as a historic habitation foundation and modified outcrop near Area 2. Existing historic and cultural resources at the Nioi Heiau and the Hawaiian Studies area, mauka of Areas 2, 3, and 4 are being preserved.

(3) Scenic and Open Space Resources:

- (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Policy (c)(3)(D): Encourage those developments that are not coastal dependent to locate in inland areas.

(5) Economic Uses:

- (A) Provide public or private facilities and improvements important to the State's economy in suitable locations.



BYU-H is meeting these CZM objectives and policies by locating and expanding their campus to inland areas and not close to the shoreline or coastal areas. While important to the State's economy as an institution of higher-learning, they are concentrating and locating their student facilities in areas designated for "institutional" use under the KL SCP which protects near-shore resources.

3. Chapter 226, HRS, Hawaii State Plan (HSP). Sections of the HSP's goals, objectives, and policies that are relevant to the proposed action and support the HSP, are discussed below.
  - i. Section 226-6 Objectives and policies for the economy – in general.
    - (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:
      - (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.
  - ii. Section 226-103 Economic priority guidelines.
    - (a) Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable and diversified economy:
      - (8) Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:
        - (D) An industry that would provide reasonable income and steady employment.
  - iii. Section 226-10 Objective and policies for the economy – potential growth activities.
    - (a) Planning for the State's economy with regard to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.
      - (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts.

Approval of the Petition would lead to both new short- and long-term employment opportunities for the Koolau Loa region. Short-term employment opportunities will be generated through design and construction services and material procurement during project development. New long-term employment opportunities will be created for educators, administrators, and operations and maintenance staff.

BYU-H asserts that the 14.85-acres of the Petition Area will allow the university to enhance the quality of the academic experience on campus by improving the University's facilities and increasing the educational offerings to more students.

- iv. Section 226-21 Objective and policies for socio-cultural advancement – education.
  - (a) Planning for the State's socio-cultural advancement with regard to education shall be directed towards achievement of the objective of the provision of a variety of educational opportunities to enable individuals to fulfill their needs, responsibilities, and aspirations.
  - (b) To achieve the education objective, it shall be the policy of this State to:
    - (2) Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.

The planned expansion of BYU-H with this SLUDBA and the subsequent PRU will allow the campus to expand with the addition of new facilities, and will increase the percentage of students living on campus. This will have the intended effect of creating a more collegial atmosphere where a wider variety of educational opportunities may be supported. The proposed SLUDBA conforms to these applicable objectives and policies of the Hawaii State Plan.

C. Compliance with City Land Use Plans and Zoning Requirements.

- 1. General Plan of the City and County of Honolulu (Amended October 3, 2002 by Resolution 02-205, CD1). The proposed SLUDBA supports the following General Plan objectives and policies.

- I. Population, Objective C.

"To establish a pattern of population distribution that will allow the people of Oahu to live and work in harmony."

Policy 3: "Manage physical growth and development in the urban-fringe and rural areas so that:

- a. An undesirable spreading of development is prevented; and
- b. Their population densities are consistent with the character of development and environmental qualities desired for such areas."

The proposed SLUDBA is consistent with the objective and policy above. The 14.85-acres of the Petition Area are located within an area designated by the City and County of Honolulu land use plans and policies for BYU-H campus expansion. All proposed campus improvements are shown to remain within the Community Growth Boundary and areas designated for Institutional use on the KL SCP Land Use Map. The planned new single student dormitories, married

student apartments and overall site are planned to be designed and constructed to be consistent with the visual character of the existing campus and surrounding Laie community. Conformance with this objective can be evaluated during the PRU and building permit processes.

II. Economic Activity, Objective A.

"To promote employment opportunities that will enable all the people of Oahu to attain a decent standard of living."

Policy 1: "Encourage the growth and diversification of Oahu's economic base."

Policy 2: "Encourage the development of small businesses and larger industries which will contribute to the social well-being of Oahu residents."

The proposed SLUDBA is consistent with the objective and policies above. The 14.85-acres of the Petition Area will generate new short- and long-term employment opportunities for the Koolau Loa region. Short-term employment opportunities will be generated through design and construction services and material procurement during project development. New long-term employment opportunities will be created for educators, administrators, and operations and maintenance staff.

III. Natural Environment, Objective A.

"To preserve and protect the natural environment."

Policy 6: Design and maintain surface drainage and flood-control systems in a manner which will help preserve natural and cultural resources.

The proposed SLUDBA will allow the BYU-H campus to expand into the Petition Area. Where new development (married and single student housing) occurs, it will be required that the proposed campus expansion will comply with DPP's 2017 Storm Water Quality Rules and Storm Drainage Standards by utilizing on-site storm water retention and low-impact development features integrated with site landscaping to ensure that there will be zero net increase in stormwater runoff from the campus. In this way, the proposed SLUDBA is consistent with the objective and policy above.

IV. Housing, Objective A.

"To provide decent housing for all the people of Oahu at prices they can afford."

Policy 9: Encourage the preservation of existing housing which is affordable to low- and moderate-income persons.

Policy 12: Encourage the production and maintenance of affordable rental housing.

The proposed new single student dormitories and married student apartments will accommodate an increase of approximately 1,000 students living on-campus. The dormitories will accommodate 936 single-students including 500 new and 436 existing students currently living off-campus. The apartments will accommodate 56 married students and their families. By relocating currently enrolled students who live off campus into on-campus housing, BYU-H believes these students will benefit from a more structured academic and living environment. In addition, the on-campus housing expansion will accommodate the planned increase in the total number of enrolled students over the next five years so that new students will not create additional demand for off-campus housing. This should increase the availability of housing options for Laie residents.

V. Transportation and Utilities, Objective A.

"To create a transportation system which will enable people and goods to move safely, efficiently, and at a reasonable cost; serve all people, including the poor, the elderly, and the physically handicapped; and offer a variety of attractive and convenient modes of travel."

Policy 9: Promote programs to reduce dependence on the use of automobiles.

Policy 10: Discourage the inefficient use of the private automobile, especially in congested corridors, and during peak-hours.

Policy 11: Make public, and encourage private, improvements to major walkway systems.

The planned campus expansion with this SLUDBA will support an increase in on-campus residency from 75 to 95 percent, which will reduce the percentage of students commuting by private automobile. The net effect is expected to be a reduction in the percentage of student automobile ownership and vehicle trips. BYU-H has also implemented a Traffic Demand Management (TDM) program to further reduce dependence on automobile ownership and use. The current TDM program offers campus car share services, shuttle services to nearby retail and civic centers, a bike share service, and a subsidized student bus pass during the academic term. The campus design promotes interconnectedness between buildings and facilities with high-capacity, pedestrian walkways. Therefore, the campus expansion envisioned with this SLUDBA would be consistent with the stated objective and policies listed above. However, to monitor ongoing progress and success with this TDM program in achieving these policies, the DPP will request, as a condition of the PRU permit process, that the Applicant monitor actual TDM performance providing the results to the DPP in an annual report.

2. Chapter 24, ROH, Article 7, KL SCP. Section 24-7.5(c), ROH, provides that all proposed developments within the KL SCP area shall be reviewed for their consistency with the vision, policies, and guidelines of the current KL SCP, dated October 1999. It should be noted an update to the KL SCP (December 2012) was recommended for approval by the Planning Commission in April 2013. Since then, the KL SCP update has gone through several amendments and is

presently before City Council as Bill 1 (2017), CD1. Bill 1 (2017), as amended, passed its second reading on August 15, 2018 and the campus expansion contemplated in this Petition remains consistent with the vision, policies, and guidelines of both the 1999 KL SCP Plan and the updated KL SCP currently before Council. However, because the current amended version has not been adopted by Council, the following review will be of how the BYU-H SLUDBA is consistent with the vision, policies, and guidelines of the 1999 KL SCP.

#### **3.9.2.1 POLICIES**

BYU-H should continue to evoke a sense of place that distinguishes it as an important educational and cultural institution and unique asset to the Koolau Loa region.

BYU-H remains an important educational and cultural institution in the Koolau Loa region as noted in the KL SCP. It is the only institution for higher education in the North Shore and Koolau Loa regions. BYU-H offers undergraduate educational programs in mathematics, liberal arts, and management. BYU-H is a four-year college with an annual enrollment of approximately 2,700 students. The University anticipates slowly increasing its enrollment to a FTE of 3,200 students eventually enrolling up to 5,000 students.

The following is a policy for development and maintenance of the campus:

- The design of new facilities should be environmentally sensitive and reflect appropriate architecture and culture of the existing campus and adjacent residential areas.

The general design principle for the single-student and married-student housing projects is to maintain the mid-density, mid-rise open-space character of the BYU-H campus by minimizing the building footprint and providing multiple floors. Single student dormitories will be a four-story structure with single-loaded units around a central courtyard. The two married student apartment buildings will be three-story structures, each with 28 units. Access driveways, pedestrian walkways, student parking, landscaping, open space and retention areas, and related drainage infrastructure and utilities will be designed to integrate with the existing campus facilities and be compatible with the surrounding character of Laie town. A preliminary review of the description of improvements and the site plan in the PRU application indicates that this design complies with this policy.

3. Chapter 21, ROH, Land Use Ordinance (LUO). The reclassification of 14.85 acres from SLU Agricultural District to SLU Urban District would allow BYU-H to commence with the proposed campus expansion, primarily for student housing and support facilities, as stated in this SLUDBA application. No change of zoning is required, however, the Applicant is requesting approval of a new PRU, a procedure distinctly created for uses of a permanent and institutional nature. The new PRU would replace the previous one passed by City Council Resolution No. 96-321, CD1, which supported the expansion and renovation of BYU-H support, academic, and living facilities for students, faculty, and staff in Laie. The purpose and intent of the PRU is discussed below.

PRU – Purpose and Intent. Section 21-2.120 of the LUO states, in part:

- "(a) The purpose of this section is to establish a review and approval mechanism for uses of a permanent and institutional nature which, because of characteristics fundamental to the nature of the use, provide essential community services but which could also have a major adverse impact on surrounding land uses. It is the intent that the design and siting of structures and landscaping, screening, and buffering for these uses be master planned so as to minimize any objectionable aspects of the use or the potential incompatibility with other uses permitted in the zoning district.

The 1996 City Council Resolution No. 96-321, CD1, is consistent with the KL SCP and supports the expansion and renovation of BYU-H support, academic, and living facilities for students, faculty, and staff in Laie. The proposed SLU Urban District reclassification is primarily for the purpose of developing new on-campus, single-student dormitories and married-student apartments to accommodate planned increases in student enrollment. A new PRU will account for the campus improvements made since approval of the 1996 resolution and accommodate the proposed expansion for three new single-student dormitories, Hale 11 to 13, and two new, married-student apartment buildings, TVA 26 and 27. The campus expansion is not expected to have major adverse impacts on the surrounding land uses. The impact on the local housing supply should be positive by relieving some demand pressure on the limited housing supply in Laie.

4. Chapter 4, ROH, Article 8, Public Infrastructure Map (PIM). The KL PIM (Attachment 4) shows two PIM symbols near the project site. KL PIM No. 002, the "Laie Well", is a plan to construct a new potable water well and related improvements, mauka (west) of the BYU-H campus and Laie community. KL PIM No. 003, the "Waialele Well" project is a plan to construct a new potable water well and related improvements south of the BYU-H campus. The Honolulu Board of Water Supply's proposed water wells are in anticipation of future development in the area, however, these PIM projects are unrelated to the BYU-H expansion since the campus is supplied by its own private water system.
5. Chapter 21, ROH, Article 9, Special District Regulations, LUO. The Petition Area is not within any Special District and thus there are no additional regulations that apply.
6. Chapter 23, ROH, Shoreline Setback Ordinance, and Chapter 25, ROH, SMA Ordinance. The Petition Area is not within the Shoreline Setback area or within the SMA.

D. Compliance with Environmental Legislation.

1. Chapter 343, HRS, and Title 11, Chapter 200, HAR, Environmental Impact Statements (EIS). In July 2017, the DPP determined that an Environmental Assessment (EA) was not required since the requirements of Chapter 343 for an EA did not apply prior to submitting a SLUDBA application.
2. Chapter 6E-42, HRS, Historic Preservation. The lands that comprise the proposed 14.85-acre Petition Area have historically been used for agricultural

cultivation, primarily sugar cane production and truck crops. In the 1970's and 1980's, Area 6 was used as a quarry by Laie Concrete and Aggregate, Inc., (operating entity prior to the LTCL). By 1987, quarry operations here ceased and the land was restored in accordance with the lease conditions for use by BYU-H.

As a result of agricultural activities and due to their proximity to the BYU-H campus, the related development activities over the latter half of the 20<sup>th</sup> century subjected the proposed Petition Area to significant modification and ground disturbance. The SLUDBA application does contain the findings of the 2017 Draft Archeological LRFI conducted by Cultural Surveys Hawaii, Inc. The LRFI identified the nearest historic properties as State Inventory of Historic Places (SIHP) No. 50-80-02-4455, a historic habitation foundation, and SIHP No. 50-80-02-4456, a modified outcrop, located near the northwest area (Area 2) parking lot.

The 2012 AIS report prepared by the SCS identified one surface site of historic significance, an archaeological site, identified as SIHP No. 50-80-02-7298. This site was recorded as a traditional-type lithic scatter including 31 basalt and volcanic glass artifacts. This surface site is in the proposed dormitory expansion area of Area 5, on the southern side of campus. According to Morgan Davis, SCS Archeologist, the lithic scatter material documented in the 2012 report was collected during the field work and is no longer present at the site. In their 2012 report, SCS recommended no further archaeological work or monitoring was necessary for the site. However, additional subsurface testing (trench excavation) in the area, if considered necessary, will be done prior to any construction activities.

Overall, the proposed project in the Petition Area is unlikely to have an adverse impact on archeological, historic, or cultural resources due to past significant modification and ground disturbance. In the event that unknown or unexpected archeological, historic, or cultural features, deposits, or burials are discovered, all work in the immediate area of the find will be suspended and the SHPD will be notified immediately to evaluate the significance of the findings and determine the appropriate course of action as required by HRS Chapter 6E-42. As stated earlier in this report, the DPP is recommending a more thorough assessment of possible traditional and customary native Hawaiian rights and practices in the Petition Area as a condition of approval to meet the requirements of HRS, Section 205.17(3).

3. Chapter 21A, ROH, Flood Hazard Areas. The following Flood Insurance Rate Map (FIRM), Panel Number 15003C0045H revised November 5, 2014, covers the Petition Area. The FIRM show the Petition Areas is located in Zones A, AE, AH, and X. Approximately 9.23 acres are in Flood Zone A, 2.56 acres in Flood Zone AE, 0.20 acres in Flood Zone AH, and 2.86 acres are within Flood Zone X (Attachment 5).

According to the Flood Zone Definitions of the Federal Emergency Management Agency, Zone A is comprised of areas with high flood hazard (1-percent-annual-chance flood event) but in a zone where no BFE is determined; Zone AE is subject to inundation by the 1-percent-annual-chance flood event where BFEs are determined by detailed hydraulic analyses; areas in Zone AH are subject to inundation by 1-percent-annual-chance of shallow flooding (usually areas of



ponding) where average depths are 1-3 feet and BFEs derived from detailed hydraulic analyses are shown within this zone; and Zone X (unshaded) is comprised of areas with minimal flood hazard above the 500-year flood level (0.2 percent annual chance of flood).

The Waialele Flood Risk Management Reduction Project is currently being undertaken by the U. S. Army Corps of Engineers to stop overflows from the Waialele Stream from reaching the BYU-H campus and Laie town. Proposed improvements being studied include an overflow channel at Waialele Stream eastwards to a new culvert crossing Kamehameha Highway. Once a plan is implemented, estimated to be about 7-10 years, it is anticipated the BFEs within Laie town and the BYU-H campus will be significantly reduced and the AE and A flood zones would be eliminated.

Any development within Flood Zone AE must comply with the requirements of Chapter 21A. In addition, the National Flood Insurance Program regulates development within this zone. The forthcoming PRU application process will be best suited to consider the addition of conditions requiring compliance with Chapter 21A and the National FIRM, therefore, a condition of approval for the SLUDBA application is not necessary.

4. Impact of Potential Sea Level Rise. A projected global mean sea level rise of 3.2 feet, as early as mid-century, is the planning threshold for episodic flood hazard modeled in the Hawaii Sea Level Rise Vulnerability and Adaptation Report published by the Hawaii Climate Change Mitigation and Adaptation Commission in 2017. According to the Hawaii Sea Level Rise Viewer, that projects coastal inundation from sea level rise, the Petition Area, as well as, the BYU-H campus will not be affected by 3.2 feet of sea level rise. However, the June 2018 City and County of Honolulu Climate Change Commission Sea Level Guidance and Climate Change Brief recommends taking into consideration 6 feet of sea level rise in later decades of the century, especially for critical infrastructure with long expected lifespans and low-risk tolerance such as roads and highways, water and wastewater treatment plants, and electricity generating and transmission facilities. The urgency to establish policies to address, adapt, and minimize risk from climate change and up to 6 feet of sea level rise was consummated with the Mayor's Directive 18-2 to all City and County departments and agencies on July 16, 2018.

At 6 feet of sea level rise, the NOAA Sea Level Rise Viewer does show one low-lying area on the mauka side of Areas 1 and 2 that might be vulnerable. The National Oceanic and Atmospheric Administration's Sea Level Rise Viewer adds a disclaimer that this is determined solely by how well the elevation data captures the area's drainage characteristics and a more detailed analysis may be required to determine the area's actual susceptibility to flooding. Mauka of Areas 1 and 2 is a drainage swale running behind TVA buildings 23, 24, and 25 to intercept stormwater flows coming from the nearby agricultural lands. Therefore, since a 6-foot sea level rise will have only a negligible impact on a very small portion of the Petition Area and there is no critical infrastructure planned in Petition Area, it is not anticipated to be impacted by sea level rise.

#### IV. CONCLUSIONS OF LAW

The Director hereby makes the following Conclusions of Law:

1. The proposed SLUDBA to reclassify 14.85 acres of land from the SLU Agricultural District to the SLU Urban District complies with the state review requirements to reclassify to the SLU Urban District.
2. The reclassification of the 0.03 acre area from the SLU Urban to the SLU Agricultural District will neither further agricultural production nor protect agricultural land. However, it brings consistency and simplicity in the interpretation of the SLU District boundaries.
3. The proposed SLUDBA to reclassify 14.85 acres of land from the SLU Agricultural District to the SLU Urban District is consistent with the objectives and policies of the Hawaii State Plan and the General Plan of the City and County of Honolulu.
4. The proposed SLUDBA to reclassify 14.85 acres of land from the SLU Agricultural District to the SLU Urban District is consistent with the objectives and policies of the City and County of Honolulu KL SCP.
5. The planned expansion is consistent with the City and County of Honolulu KL SCP which identifies the 1996 PRU boundary as appropriate land for future campus expansion and renovation. According to the Land Use Map of the plan, the planned campus expansion is also entirely within the RCB.
6. The proposed SLUDBA meets the requirements of establishing a SLU Urban District, addresses the impacts of the proposed reclassification on the areas of state concern in HRS, Section 205-17(3), and the reclassification does not include IAL. In its review of this Petition, the DPP seeks specific findings and conclusions as to the identity and scope of the valued cultural, historical, or natural resources, the extent those resources will be affected or impaired by the proposed action, and any feasible action to reasonably protect such native Hawaiian rights if they are found to exist. At this time, the DPP is recommending the receipt and acceptance of a CIA regarding the protection and preservation of traditional and customary native Hawaiian rights in the Petition Area.
7. The proposed SLUDBA will allow the proposed campus expansion to proceed onto review and consideration of a proposed PRU application as the new Five-Year Campus Master Plan.
8. The SLUDBA will contribute to the general welfare and prosperity of the people of Oahu by allowing the university to grow in its educational opportunities and leading to the creation of new short- and long-term employment opportunities. The SLUDBA will also create more student housing opportunities on campus thereby improving the quality of the academic experience on campus.
9. By increasing the percentage of students living on campus from 75 to 95 percent, the SLUDBA will allow for more student housing and thereby relieve the housing demand in Laie. With more students living on campus, a slight decrease in traffic congestion is also expected.

9. By increasing the percentage of students living on campus from 75 to 95 percent, the SLUDBA will allow for more student housing and thereby relieve the housing demand in Laie. With more students living on campus, a slight decrease in traffic congestion is also expected.
10. The SLUDBA brings several existing uses into conformance with HRS Chapter 205.

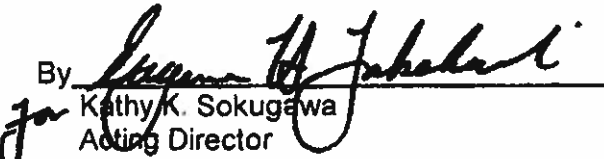
## V. RECOMMENDATION

Based on the foregoing Findings of Fact, Analysis, and Conclusions of Law, the Director of the Department of Planning and Permitting (DPP) recommends that a State Land Use District Boundary Amendment (SLUDBA) of 14.85 acres from the State Land Use (SLU) Agricultural District to the SLU Urban District and 0.03 acres from the SLU Urban District to the SLU Agricultural District be APPROVED subject to the following conditions:

1. A prohibition on any action that would interfere with or restrain farming operations on lands in the Petition Area that are contiguous or adjacent to the Agricultural District; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the agricultural district; and;
2. The Applicant shall notify all prospective developers or purchasers of land or interest in land in the Petition Area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous land in the agricultural district are protected under HRS Chapter 165, the Hawaii Right to Farm Act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.
3. The amendment to the SLU District boundaries for the Petition Area is not effective until a Cultural Impact Assessment (CIA), including a Ka Paakai Analysis and identification of mitigative measures, is accepted by the DPP in consultation with other agencies.
4. Any future PRU application shall consider as conditions of approval mitigative measures identified in the CIA.
5. Any future PRU application, or application to modify an existing PRU, shall have the SLU District Boundary information provided on any site plans or maps submitted with said application.
6. On an annual basis, the Petitioner shall submit a written status report to the DPP documenting satisfaction of and/or describing its progress toward complying with each condition of approval for this SLUDBA. The status report shall be submitted to the DPP on or before December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied, or as necessary.

Dated at Honolulu, Hawaii, this 24th day of October, 2018.

DEPARTMENT OF PLANNING AND PERMITTING  
CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

By   
Kathy K. Sokugawa  
Acting Director

Attachments

## STATE OF HAWAII

**File Nos. 2018/SLU-1  
2018/GEN-8**

## I. PROPOSAL

A public hearing was held in accordance with Section 2-85, Rules of the Planning Commission, City and County of Honolulu Administrative Rules, Part 1, effective January 16, 1995. Based on the record in this matter, the Planning Commission hereby makes the following Findings of Fact, Conclusions, and Recommendation.

## **II. FINDINGS OF FACT**

On the basis of the evidence presented, the Commission hereby finds that:

1. The properties in question are identified by Tax Map Key (TMK): 5-5-006: portions of 005 and TMK: 5-5-006: portion 032. The property owner is BYU-H.
2. The properties subject to the proposed SLUDBA involve six non-contiguous areas, collectively referred to as the "Petition Area". Of the six, five areas, totaling 14.85 acres are proposed to be reclassified from the SLU Agricultural District to the SLU Urban District. The 0.03-acre sixth area is proposed for reclassification from the SLU Urban District to the SLU Agricultural District. They are located along the western and southern edges of the existing campus between Naniloa Loop and Quarry Road.
3. Married and single student housing, as well as other campus improvements, are not allowed uses within the SLU Agricultural District. The SLUDBA is required to expand the SLU Urban District boundary in order to accommodate these campus improvements.
4. Although the Petitioner's proposal will result in a reduction of approximately 14.85 acres in the SLU Agricultural District, the Petition Area has low, if any, agricultural productivity due to extensive modification and conversion to urban-type uses from campus development or are unmaintained and no longer actively farmed.
5. Pursuant to the Hawaii Revised Statutes (HRS), Section 205-17(4), the proposed reclassification of lands to the SLU Urban District does not include Important Agricultural Lands (IAL).
6. The proposed reclassification to the SLU Urban District is consistent with both the Hawaii State Plan and County General Plan. Specifically, it is consistent with the Economic Objectives and Policies in the State Plan and the Population, Economic Activity, Natural Environment, Housing, and Transportation and Utilities chapters of the General Plan by adhering to a compact pattern of development near existing campus facilities, contributing to the local economy, expanding affordable housing opportunities, and increasing on-campus student residency from 75 to 95 percent to help reduce the reliance on automobile use.
7. The Petition Area is located within the Rural Community Boundary (RCB) of the 1999 Kooloau Loa Sustainable Communities Plan (KL SCP) and the updated KL SCP currently before Council. All proposed campus improvements are shown inside the RCB and in areas designated for Institutional use on both KL SCP Land Use Maps. The BYU-H campus expansion is consistent with the vision, policies, and guidelines of both the existing and the proposed (updated) KL SCP currently before City Council as Bill 1 (2017), CD1.

8. The Petition Area is entirely within the County's AG-1 Restricted Agricultural Zoning District. However, no change of zoning is required. BYU-H is requesting approval of a new Planned Review Use (PRU), a land use regulatory procedure distinctly created for uses of a permanent and institutional nature.
9. The Commission received the attached report on October 24, 2018 from the Acting Director of the DPP, which provides an analysis of the proposed change to the SLU Urban and Agricultural Districts, and which recommends that the proposed amendment be approved, subject to conditions.
10. Three speakers, Kela and Martin Miller, and Jim Brown provided testimony at the Public Hearing.
11. Public agencies who reviewed the SLUDBA application did not object to the request.

### **III. CONCLUSIONS**

The Planning Commission hereby concludes:

1. In accordance with Sections 205-3.1(c) and 205-4, HRS, the City Council is the authorized decision-maker of SLUDBA of 15 acres or less (except when reclassifying lands in the SLU Conservation District or designated as Important Agricultural Lands).
2. In accordance with Section 205-2(a)(1), HRS, in the Petition Area, the expansion of student housing and the possibility of future facilities on-campus is consistent with the purpose and intent of the SLU Urban District.
3. In accordance with HRS, Section 205-17(3), the proposed reclassification is not expected to impact these following areas of state concern:  
a) important natural systems or habitats; b) valued cultural, historical, or natural resources; c) natural resources relevant to Hawaii's economy; including agricultural resources; d) commitment of state funds or resources; e) provision for employment opportunities and economic development; and f) provision of housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.
4. The SLUDBA will contribute to the general welfare and prosperity of the people of Oahu by allowing the university to expand its educational and employment opportunities. The SLUDBA will also contribute towards creating more student housing on campus thereby improving the quality of the academic experience on campus.
5. The Project complies with the objectives of the State Land Use Law; meets all applicable guidelines and policies of the Hawaii State Plan, the General Plan of the City and County of Honolulu, the Koolau Loa



Sustainable Communities Plan; and is consistent with applicable Coastal Zone Management objectives and policies.


#### IV. RECOMMENDATION

Pursuant to the foregoing Findings of Fact and Conclusions, the Commission hereby recommends **APPROVAL** of the Application for a State Land Use District Boundary Amendment of five non-contiguous areas, totaling 14.85 acres, from the State Land Use (SLU) Agricultural District to the SLU Urban District and one, 0.03-acre area being reclassified from the SLU Urban District to the SLU Agricultural District, as approximately shown on Diagram 1, attached hereto, subject to the following conditions:

1. A prohibition on any action that would interfere with or restrain farming operations on lands in the SLU Agricultural District that are contiguous or adjacent to the Petition Area; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District; and;
2. The Applicant, BYU-H, shall notify all prospective developers or purchasers of land or interest in land in the Petition Area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous lands in the SLU Agricultural District are protected under Hawaii Revised Statutes Chapter 165, the Hawaii Right to Farm Act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.
3. The amendment to the SLU District boundaries for the Petition Area is not effective until either a Cultural Impact Assessment (CIA) or other cultural document, including a 'Kaa Paakai Analysis' and identification of any necessary mitigative measures, is accepted by the Department of Planning and Permitting (DPP).
4. Any future Planned Review Use (PRU) application shall consider as conditions of approval the mitigative measures identified in the CIA or other cultural document.
5. Any future PRU application, or application to modify an existing PRU, shall have the SLU District Boundary information provided on any site plans or maps submitted with said application.
6. On an annual basis, the Petitioner shall submit a written status report to the DPP documenting satisfaction of and/or describing its progress toward complying with each condition of approval for this SLUDBA. The status report shall be submitted to the DPP on or before December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied.

Dated at Honolulu, Hawaii this 4<sup>th</sup> day of December, 2018.

PLANNING COMMISSION  
CITY AND COUNTY OF HONOLULU

By   
Cord D. Anderson, Vice-Chair

Attachment



250 feet. The slope range of this soil is 0 to 2 percent. HeA soil has moderate high to high (0.60 to 1.98 inches/hour) infiltration rates and very low runoff rates. The depth to water table is estimated at more than 80 inches.

- Coral outcrop (CR): Consists of coral or cemented calcareous sand. The coral reefs formed in shallow ocean water during the time the ocean stand was at a higher level. Small areas of coral outcrop are exposed on the ocean shore, on the coastal plains, and at the foot of the uplands. Elevations range from sea level to approximately 100 feet. The slope range of this soil is 0 to 25 percent. CR soil has moderately high to high (0.20 to 5.95 inches/hour) infiltration rates and low runoff rates. The depth to restrictive features is estimated at 0 inches to lithic bedrock.
- Keaau clay (KmA): Consists of poorly drained soils on coastal plains. These soils developed in alluvium deposited over reef limestone or consolidated coral sands. Elevations range from 5 to 40 feet. The slope range of this soil is 0 to 2 percent. KmA has moderately low to moderately high infiltration rates.
- Mokuleia loam (Ms): Consists of well-drained soils along the coastal plains. These soils formed in recent alluvium deposited over coral sand. Elevations range from 0 to 100 feet. The slope range of this soil is 0 to 2 percent. Ms has high infiltration rates. The depth to restrictive features is estimated at 80 inches.

ALISH. The Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system identifies three classes of agriculturally important lands; Prime Agricultural Lands, Unique Agricultural Lands, and Other Important Lands. The majority of the proposed Area 5 and a smaller portion of the west expansion area are classified by ALISH as:

- Prime Agricultural Land (1): Land is best suited for the production of food, feed, forage and fiber crops. The land has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically when treated and managed, including water management, according to modern farming methods.

The remaining areas within the Petition Area do not have an ALISH classification.

Land Study Bureau Classification (LSB). The Land Study Bureau of Hawaii (LSB) classification system evaluates the quality of State land in terms of agricultural productivity based on environmental conditions, physical characteristics, and soil properties and assigns a productivity rating of 'A' through 'E', with 'A' having 'very good' productivity and 'E' having 'very poor' productivity. The proposed Petition Area is characterized by the following LSB productivity ratings (Attachment 7):

- LSB B (Good): Approximately one-third of Area 2, the 0.03 acre area (Area 3) that is changing from SLU Urban to SLU Agricultural, a small

portion at the northern end of the 2.7-acre west area (Area 4) parking lot, and the majority of Area 5 have LSB B rated soils.

- **LSB C (Fair):** The majority of the north (Area 1) and two-thirds of the northwest area (Area 2), which includes the grassed area and parking lot, are rated LSB C.
- **LSB E (Very Poor):** The majority of the 2.7-acre west area (Area 4) that includes a parking lot, grassed detention area and the EUTTB are rated LSB E.
- Small portions of Areas 1, 4, 5, and 6 are not LSB rated.

**Important Agricultural Land (IAL).** The identification of IAL is a state mandate (HRS, Chapter 205) to create long-term protection for Hawaii's high-quality farm land and preserve productive agricultural land from future development.

The DPP recently completed a study to designate IAL on Oahu based on three priority criteria: 1) lands currently in agricultural production; 2) suitable soil; and 3) adequate water supply, selected from eight IAL standards and criteria specified in HRS Chapter 205-44.

HRS Section 205-44(c) (6) stipulates that the designation of IAL land must be consistent with general, development and community plans of the county. The KL SCP designates all land within the existing PRU boundary for Institutional Use and locates it inside the Rural Community Boundary, therefore, the DPP did not include these areas, including the Petition Area, within the draft final IAL map submitted to the Honolulu City Council in August 2018.

4. **Surrounding Uses.** The BYU-H campus is located approximately one-third of a mile mauka of Kamehameha Highway and the coastline. Kamehameha Highway serves as the major transportation arterial in the region and the only developed roadway connecting Laie and BYU-H to rest of the island. The BYU-H campus is bounded by Naniloa Loop on its north side. Further to the north, are single-family residential neighborhoods of Laie town and to the northwest of campus, the Church of Jesus Christ of Latter-day Saints Laie Hawaii Temple. The PCC lies to the east and single-family residential uses are makai of Kamehameha Highway. To the south, lie the vacant lands for the student dormitory expansion, Waialele Stream, and campus athletic fields. Across Waialele Stream, land is utilized for agricultural production. To the west, is open space, limited agricultural cultivation, a cultural preservation area (Nioi Heiau), a Hawaiian Studies area, the EGBRA, the LTCL, the LWRF, agricultural roads, various utility installations including a wastewater pump station, a LPG storage facility, developed potable water wells, and the mountainous State Conservation areas at the edge of the Koolau Mountain Range.

8. **Other Permits/Approvals Required.** While campus improvements have been undertaken within the entire boundary established by the 94/PRU-4, a new PRU application has been submitted to the DPP. The proposed PRU application accounts for the previous PRU modifications and reflects future plans for on-campus development of new facilities. If approved, the PRU will serve as the new Five-Year Campus Master Plan.